

PSYCHIATRY/COMMUNISM

## PSYCHIATRY - A COMMUNIST TOOL

### DESTROYING THE CONCEPT OF RIGHT AND WRONG

#### INDEX

1. Statements by G. Brock Chisholm, (1945), and Colonel J. R. Rees, M.D. (1940) Co-Founders of World Federation of Mental Health.

Chisholm laid out the goal of psychiatry: "... the eradication of the concept of right and wrong... psychiatry must now decide what is to be the immediate future of the human race."

Rees laid out psychiatry's plan to "imitate the Totalitarians and organize some kind of 5th column activity" [and attack the teaching profession, the Church, law and medicine.]

2. Congressional Record, August 12, 1958. Testimony of Hon. Edgar W. Hiestand.

In this testimony, the Representative details the roots of Soviet psychopolitics, its use of the courts to further Communistic ends, and the infiltration of Soviet psychopolitics into the United States.

3. Excerpts from a lecture by Allyn J. McDowell, M.D., 1979.

In this lecture, Dr. McDowell discusses the Communist influence in the American mental health movement. He draws a parallel between Brock Chisholm's goals for psychiatry and the key tenets of Communism. He also cites an American psychiatrist, a Board member of the National Association for Mental Health, who was identified under oath as a member of the Communist Party.

4. Excerpt from "The Therapeutic State" by Dr. Thomas Szasz.

In this excerpt, Dr. Szasz describes the American Psychiatric Association's support of Soviet psychiatric practices.

5. Newsweek, August 11, 1986 - "Inside a Mind Jail"

This article covers how Russians with "objectionable" political opinions are declared mentally ill.

6. Excerpt from and book reviews of "Psychiatric Terror" by Sidney Block and Peter Reddaway..

-2-

This book exposes how Soviet psychiatry is used to suppress dissent.

7. Article in Human Events, March 13, 1982 "Why Cover Up Torture of Soviet Dissidents?"

This article covers the American Psychiatric Association's feigning of concern over the psychiatric torture of Soviet dissidents, while quietly promoting the Soviet propaganda line.

8. Chapter from "The Powers of Psychiatry" by Jonas Robitscher, J.D., M.D.

In this chapter, Dr. Robitscher shows how psychiatry has usurped legal authority in America, as is common practice in Russia.

9. Speech by psychiatrist Dr. Milton Greenblatt before the APA annual meeting of May 2, 1983, and commentary on speech by CCHR director, printed in the Washington Times, May 30, 1983.

Dr. Greenblatt's speech proposes the establishment of a "Presidential Health Commission" in which psychiatrists would usurp political power by advising on the psychiatric fitness of [presidential] candidates.

10. Excerpts from two books: "Law, Liberty and Psychiatry" by Dr. Thomas Szasz, and "The Death of Psychiatry" by Dr. E. Fuller Torrey.

Both of these excerpts cite psychiatric studies in which Jesus was "found" to have suffered from mental illness. This is an example of psychiatrists advocating concepts contrary to the First Amendment, thus eroding the moral concepts upon which this country was founded.

11. Excerpts from "Diagnostic and Statistical Manual of Mental Disorders (Third Edition)" and "DSM - III Training Guide".

These American Psychiatric Association publications give the criteria by which mental illnesses are diagnosed. Included among those who are diagnosed as having a Schizophrenic disorder are individuals who have religious visions. It is thus the psychiatrist who determines whether it is a "sincere" religious vision or if the person should be classified as schizophrenic.

12. Excerpt from the testimony of Dr. John G. Clark, Jr. in Donald L. Kieffer v. Holy Spirit Association for the Unification of World Christianity.

In his testimony, Dr. Clark states that devil worship can be healthy and belief in God can be damaging. This is another example of psychiatric assault on religion.

13. Psychiatric testimony rejected in religion cases.

**"THE RESPONSIBILITY OF PSYCHIATRY"**  
(A speech in October 1945)

"The re-interpretation and eventually eradication of the concept of right and wrong... these are the belated objectives of practically all effective psychotherapy.

"If the race is to be freed from its crippling burden of good and evil it must be psychiatrists who take the original responsibility.

"... psychiatry must now decide what is to be the immediate future of the human race. No one else can."

G. Brock Chisholm  
Co-Founder WFMH  
(World Federation of Mental Health)

**"STRATEGIC PLANNING FOR MENTAL HEALTH"**  
(A speech in June 1940)

"We can therefore justifiably stress our particular point of view with regard to the proper development of the human psyche, even though our knowledge be incomplete. We must aim to make it permeate every educational activity in our national life.

"Public life, politics and industry should all of them be within our sphere of influence.

"... we have made a useful attack upon a number of professions. The two easiest of them naturally are the teaching profession and the Church: the two most difficult are law and medicine.

"If we are to infiltrate the professional and social activities of other people I think we must imitate the Totalitarians and organize some kind of 5th column activity. Let us all, therefore, very secretly be '5th columnists'.

"I feel we need a long-term plan of propaganda ... Don't let us mention Mental Hygiene (with capital letters) though we can safely write in terms of mental health ... "

Colonel J.R. Rees M.D.  
Co-Founder WFMH  
(World Federation of Mental Health)



# The William Alanson White Memorial Lectures

Second Series

Major-General G. B. Chisholm, C.B.E., M.D.

DEPUTY MINISTER OF HEALTH

DEPARTMENT OF NATIONAL HEALTH AND WELFARE, CANADA

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RESPONSIBILITY OF PSYCHIATRY  
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# The Reestablishment of Peacetime Society

G. B. Chisholm\*

## The Responsibility of Psychiatry

WILLIAM ALANSON WHITE'S teachings and writings from his *Outlines* in 1907 to the last days of his life provided much of the impetus in the development of psychiatry which occurred during those years. His vision and humanity, honest thinking and devotion would have been of great value to the world in the troublous times ahead of us now. It would not however be a fitting memorial to William Alanson White to spend our time on this occasion looking backward at his work and bemoaning his absence and the loss to psychiatry. He would not have us at any memorial of his, talk about William Alanson White. The most sincere way we can honor him is to try to look forward, in the spirit of honesty, devotion and service which characterized his whole life, to face and deal with the vast problems which lie ahead.

He would recognize that there is much for psychiatry to do and we should be getting on with the job as he would be doing if he were here. He would recognize, as we must, that this is a sick world, with an old chronic but ever more extensive and serious sickness. Its sickness has recently become acutely dangerous and the future is uncertain indeed.

Man, again, and on a wider and more highly organized scale than ever before, has been indulging in one of his most consistent behavior patterns, war. Though it seems that, among the people of the world, relatively few want or enjoy wars, and very many suffer in many ways during wars, man persists in this senseless behavior century after century. Until recent years wars could take place locally without necessarily affecting or causing concern on the part of peoples in other parts of the world, but that time is past. Every war is now a threat to all the people in the world, either directly or

through deprivation of materials or loss of trade.

This situation is widely recognized and no nation will ever again be able to formulate its policies on the basis of isolationism. The interdependence of all the people in this shrunken world is obvious. Fast air transport and the atomic bomb are only the latest steps in that process, which has been going on for a long time, of breaking down the geographical barriers between groups of peoples. We are all now, perforce, citizens of the world, whether we are sufficiently mature adequately to carry that responsibility or not.

\* M.D. University of Toronto 24; post-graduate work Middlesex and All Saints' Hospitals London England 24-25; general practice Oakville Ontario 25-31; lecturer psychiatry Yale Med. School 31-33; National Hospital Queen's Square and Maudsley Hospital London England 33-34; practice - psychological Medicine Toronto 35-40; Canadian Army Infantry for 41 years through ranks to Captain in First World War; Battalion and Brigade Commander in the Militia; in present World War served as Commandant Northern Area M.D. 2, was chairman Canadian Medical Procurement and Assignment Board, Deputy Adjutant-General and Director Personnel Selection 41-42, Director General Medical Services 42-44, Deputy Minister of National Health Dept. National Health and Welfare November 44, Chairman Dominion Council of Health; President National Comm. Mental Hygiene Canada; Chairman Health Comm. Canadian Youth Commission.

† This is the second series of William Alanson White Memorial Lectures. The first of these two lectures was given in Washington, D. C. at the Auditorium of the New Interior Department Building, 23 October. The Honorable, the Secretary of Commerce, the Federal Security Administrator, and the Deputy Director of War Mobilization and Reconversion, participated in panel discussion with Drs. Chisholm, Ross McCure Chapman, Samuel W. Hamilton, and Daniel Mann, at the same place the succeeding evening. The second lecture was given in New York City at the Academy of Medicine, 23 October 1945. Honorable Jerome N. Frank, U. S. Circuit Court of Appeals Judge, spoke in discussion.

Excepted text is highlighted by bold brackets on side of text.  
note: underlining was not done by us but part of original  
copied book.

#### EDUCATION'S CRUCIAL ROLE

near enough to this date of maturity to be able to live comfortably for themselves and for the group; but surely it would be more advantageous to the world for psychiatrists to go into the preventive field where the big job needs to be done. The training of children is making a thousand neurotics for everyone that psychiatrists can hope to help with psychotherapy. To produce a generation of mature citizens is the biggest and most necessary job any country could undertake, and the reward in saving of misery and suffering would be colossal.

The re-interpretation and eventually eradication of the concept of right and wrong which has been the basis of child training, the substitution of intelligent and rational thinking for, with in the certainties of the old people, these are the belated objectives of practically all effective psychotherapy. Would they not be legitimate objectives of original education? Would it not be sensible to stop imposing our local prejudices and faiths on children and give them all sides of every question so that in their own good time they may have the ability to size things up, and make their own decisions.

The suggestion that we should stop teaching children moralities and rights and wrongs and instead protect their original intellectual integrity has of course to be met by an outcry of heretic or iconoclast, such as was raised against Galileo for finding another planet, and against those who claimed the world was round, and against the truths of evolution, and against Christ's re-interpretation of the Hebrew God, and against any attempt to change the mistaken old ways or ideas. The pretense is made, as it has been made in relation to the finding of any extension of truth, that to do away with right and wrong would produce uncivilized people, immorality, lawlessness and social chaos. The fact is that most psychiatrists and psychologists and many other respectable people have escaped from these moral chains and are able to observe and think freely. Most of the patients they have treated successfully have done the same and yet they show

no signs of social or personal degeneration, no lack of social responsibility, no tendency toward social anarchy. This bugbear has no basis in fact whatever. We all recognize these reactions as those of the immature, the inferior, the guilty, which are not found in the mature, integrated personality. Freedom from moralities means freedom to observe, to think and behave sensibly, to the advantage of the person and of the group, free from outmoded types of loyalties and from the magic fears of our ancestors.

If the race is to be freed from its crippling burden of good and evil it must be psychiatrists who take the original responsibility. This is a challenge which must be met. If psychiatrists decide to do nothing about it but continue in the futility of psychotherapy only, that too is a decision and the responsibility for the results is still theirs. What the world needs from psychiatry is honest, simple and clear thinking, talking and writing. It needs the same from psychology, sociology, economics and politics. Clear and honest thinking can almost always be expressed in simple words which are understandable by the people who matter in a democracy. The people who matter are the teachers, the young mothers and fathers, the parent-teacher associations, youth groups, service clubs, schools and colleges, the churches and Sunday schools—everyone who can be reached and given help toward intellectual freedom and honesty for themselves and for the children whose future depends on them. Can we psychiatrists give up our protective device of hiding behind a specific, difficult and variable vocabulary to avoid our obvious responsibility?

The battle, if it is to be undertaken, will be long and difficult but truth will prevail—whenever enough people want it to. With luck we have perhaps fifteen or even twenty years before the outbreak of the next world war if we remain as we are. Twenty years in which to change the dearest certainties of enough of the human race, twenty years in which to root out and destroy the oldest and most flourishing parasitical growth in the

## Strategic Planning for Mental Health\*

By COLONEL J. R. REES, M.D.

It would be hard to imagine a time more unusual or more trying than the present for a discussion such as this. I believe that some people feel that Societies giving time and attention to subjects like the present one, in war, are somehow fiddling like Nero, but I have no sympathy with that point of view. Just now, at this time, we should, more than ever, be thinking out where we stand and making plans for winning the war and for establishing work for mental health firmly for the future.

My thoughts in this paper may be somewhat at random, but both my first and my last points of emphasis are concerned with the present situation in this country. Our own mental stability, our vision and our practical commonsense, have never been challenged so much as at present. If we are to pull our weight during the war period we must be sure that we ourselves have got on to friendly terms with our own personal fear, we must be clear that whatever happens to us individually the spirit that is in everything true and progressive can never be damaged, and if we believe this we can go quietly and resolutely forward working to the utmost, and demonstrate that mental health is a reality. Let us then turn our interest and perhaps some of our aggressive qualities on to this vast problem of mental health, as one of the adventures of the present day, and see what we personally can plan and achieve.

Many people who have written about this problem of mental health have formulated definite aims. I will not attempt to do that with any exactitude, but it seems clear that we would wish, all of us, to do something to make our race more adventurous, more adaptable, happier and, if possible, more intelligent. I shall barely touch on the remedial side of our work. Medicine has, in any case, been far too much a matter of repairing and patching people up. The real Medicine of the future will be largely prophylactic, and certainly in our field the important thing is to stress the positive aspects of mental health instead of concentrating our interest on ill health. Of the three main branches of psychiatric work—for the defectives, the psychotics, and the neurotics—the third is probably the most important from the national point of view, and certainly here prophylaxis is far more important than treatment, in fact it provides the only road to an ultimate solution of this particular medico-sociological problem.

We can therefore justifiably stress our particular point of view with regard to the proper development of the human psyche, even though our knowledge be incomplete. We must aim to make it permeate every educational activity in our national life: primary, secondary, university and technical education are all concerned with varying stages in the development of the child and the adolescent. Those who provide the education, the principles upon which they work, and the people

\* Summary of an address given at the Annual Meeting of the National Council for Mental Hygiene on June 18th, 1940.

upon whom they work, must all be objects of our interest, for education that ignores the commonsense principles that have been more clearly evolved of recent years is likely to be of indifferent quality. Public life, politics and industry should all of them be within our sphere of influence. It needs little imagination to see improvements that could be effected in each of them.

Especially since the last world war we have done much to infiltrate the various social organizations throughout the country, and in their work and in their point of view one can see clearly how the principles for which this society and others stood in the past have become accepted as part of the ordinary working plan of these various bodies. That is as it should be, and while we can take heart from this we must be healthily discontented and realize that there is still more work to be done along this line. Similarly we have made a useful attack upon a number of professions. The two easiest of them naturally are the teaching profession and the Church: the two most difficult are law and medicine. Anyone whose memory goes back for even a dozen years can realize how big a change has been effected in the outlook of professional people, while certainly anyone with vision can see how much still remains to be done.

If we are to infiltrate the professional and social activities of other people I think we must imitate the Totalitarians and organize some kind of fifth column activity! If better ideas on mental health are to progress and spread we, as the salesmen, must lose our identity. By that I mean that we cannot help so effectively if speaking for a National Council or any other body as we can when we make a more subtle approach adapted to the particular circumstances of the moment. It really wouldn't matter if no one ever heard of this Council again provided that the work was done. Let us all, therefore, very secretly be "fifth columnists".

At the same time, however, there is no reason why we should not as individuals and in small groups make use of a perfectly open approach to the question of mental health. We have all of us got contacts with men and women who are concerned with the various aspects of life that I have just been mentioning and we could most of us get together small groups for informal discussions on these topics, and out of this might grow definite bodies or committees of persons interested in each of these fields of work, being convinced that it was worth while to work out their own specific problems and their own plans. While a central office can sometimes help in a project such as this, only the determined work that we as individuals can put in will ever provide the dynamic for such activities.

In this field, as in every other, we ought to be thinking ahead and foreseeing events so far as that is possible. We have often been too spasmodic in our work and I feel we need a long-term plan of propaganda. The time is past when we need be in any way apologetic for directing people's interest to questions of mental health. Practically everybody is ready for such ideas. They were before the war, and it is far truer now than it was then. I doubt the wisdom of a direct attack upon the existing state of affairs; even though there is a war on, that would still raise opposition, whereas the more insidious approach of suggesting that something better is needed—"why shouldn't we try so and so"—is more likely to succeed.



The evolutionary process is essentially British, and I think that we should make it a fundamental in our propaganda plan.

Parliament, the Press and other publications, are the most obvious ways by which our propaganda can be got across, and it needs the thought and work of every one of us to get this going. Medical Members of Parliament are always ready to help with any well thought out plan of campaign which is clearly for the good of the country, but we need not limit ourselves to them. There are many energetic men in Parliament who are very willing when properly coached with questions and supplementaries, to ask them, and to follow up by personal contact to make sure that points of importance are adequately dealt with. I still live in the hope that some day we shall get Members of Parliament to submit themselves to personality and efficiency tests, for I feel sure that if they did they would then insist upon all candidates for Parliament going through the same elementary routine, and we might later have some chance of its being applied to the Civil Service!

In the past we have made sporadic attempts to provide a Press service which can give statements on matters of topical interest and explain to the reporters, and through them to the public, the meaning of various phenomena which are "hot news" in our morning papers. Actually we have as a group not nearly enough alertness and enthusiasm about this matter of helping the Press and so influencing the times in which we live. Every one of us reads papers and journals but we are often too inert to take action about the points which should so obviously be taken up, whether the subject be politics, local government, social affairs or the decisions of the courts. Whether it be in matters of religion or those of home life, there are points which arise in the papers every day, in some of which we should interest ourselves. The policy of the Press, like that of the B.B.C., is affected by the size of its fan-mail. Even if our letters are not published, they still produce their effect upon the editorial mind, and some of them certainly will be published and in this way will make people think. Here again we had probably better be secretive and not mention this Council or any other body, but simply write or speak as individuals. Don't let us mention Mental Hygiene (with capital letters), though we can safely write in terms of mental health and commonsense. When we do write it is important to remember that the understatement of a case is much more likely to be effective than its overstatement.

Your attention must not be confined merely to the Daily Press, for there are innumerable weekly and monthly journals and special professional and trade papers, and it is as a rule much easier to get articles, notes, comments or letters into these papers than into the Daily Press. Quite often, also, they are more carefully read than the daily paper.

I should like to see us go beyond these more obvious points and set out on a campaign to get certain points and ideas which are of importance stressed by well-known novelists in their books. Priestley, Morgan, Walpole, and a score of others whose books have a wide appeal—even Dr. Cronin—might be willing to co-operate. I am not suggesting, of course, that they should write propaganda novels—it would be surprising if those had any circulation, but in an ordinary human story it should not be difficult to give some emphasis on a point of view, and the gradual building

up of a series of such emphases over a period of years would be the soundest kind of propaganda. This Council has recently been co-operating in some experiments with films, and there the same idea has been emphasized that just *one point* can be got across to the public through this medium. Those of you who know books and their authors, and films and their makers, might be doing some long term planning of the right kind of propaganda.

I have said several times that I believe we should be careful about the mention of the Council or any other body which might be thought to be furthering some particular point. Many people don't like to be "saved", "changed" or made healthy. I have a feeling, however, that "efficiency and economy" would make rather a good appeal because there are very few people who would not welcome these two suggestions. It has even crossed my mind whether we ought not to have a subsidiary company called the Social Efficiency Board and get Mr. Bevin or someone like that in as Chairman! It seems to me that in approaching national matters, local government and social affairs we should be on much stronger ground if we were constantly stressing our interest in efficiency and economy, and certainly we can "sell" mental health under these headings as well as under any other.

Oldham and Bristol, and possibly one or two other places, have their own committees or councils for mental health, and this is, I believe, an extremely wise move. Government in this country is being de-centralized in many ways during the war, and for our particular work I believe that the more we can spread the responsibility the better will be our progress. These matters of man's mind and outlook are sufficiently vital and interesting to attract in every area groups of intelligent men and women who will take on the function of local councils or committees. Let us learn from the Oxford Group and have week-end parties; all over the country we have people to our hand, medical students, teachers, journalists, civil servants, trades union officials, and all sorts of other people, whom we might get together and amongst whom we should find sensible, balanced people who could lead in local activities. Provided we have one such stable person in any group I should feel quite happy in giving that group its head. We all make mistakes, and no doubt it would drop some bricks but on the whole it would stir up interest of the right kind and advance our cause.

I have in this article merely been feeling around in this vast field of policy. I have touched on a few points hoping to stimulate people to think of many more, and particularly of those that are within their own particular powers to follow up. I would like to close with fresh emphasis on the fact that we each of us as individuals carry a great responsibility for the mental health of the nation, now during the war and in the much better future that must come. We need vision and courage. We mustn't merely plan and be theorists, but we must also experiment, and it is worth remembering that in a time like this it is much easier to spread sensible ideas or, if you like, to teach in a quiet way, than it ever has been before. "It all depends on me" is quite a good slogan, and Mr. Morrison's "Go to it" is yet another of the dynamic sayings of the moment. We can apply both of these to ourselves in this particular field of work.

*In view of the coming defeat of Germany, Rees updates the plan. A new social entrance is needed.*

# CONGRESSIONAL RECORD—APPENDIX

August 15

concurrent jurisdiction. Any  
nt in conference which falls  
concurrent jurisdiction should  
natically rejected by the House.

## Venture for Victory

### EXTENSION OF REMARKS OF

**HON. JOHN V. BEAMER**

OF INDIANA

U. S. HOUSE OF REPRESENTATIVES

Wednesday, August 6, 1958

**BEAMER.** Mr. Speaker, in these  
listic times, it is heartening to  
idence that other and more last-  
ies are being considered. On a  
s occasion, I inserted in the REC-  
article describing the venture for  
program being conducted by Tay-  
ersity, Upland, Ind.

ntly, I received a newsletter re-  
on this Christian venture of a  
of devoted young men. Under  
ous consent, I include this news-  
n the Appendix of the CONGRES-  
RECORD:

FOR VICTORY NEWSLETTER JULY 24,  
1958, SINGAPORE

nd just finished a basketball game in  
the southernmost city of the China  
d the key and gateway to much of  
ina's expansion program, when the  
me: "American Marines have landed  
ey to aid in the Lebanon crisis."  
and newspapers blared stories, "Is  
beginning of the end?" Tense-  
r reigned among the people of this  
nerve center. There was no peace  
rity in Saigon—except—in the hearts  
s of those few Christians who knew  
ace that passeth understanding  
faith in Christ our Lord. Yes, even  
ht there were some new believers in  
-torn area who knew that what they  
periened within was greater than  
ut them—even war. Vietnam offered  
challenge to make Christ known in a  
that had the least number of Chris-  
any place we have ever visited. But  
at we met, ministered unto our lives  
ough we had come to bring the good  
salvation to those who had not yet  
r believed. Highlight of the work  
s with the Army of Vietnam and a  
game against the American Army  
ith an opportunity to preach to the  
and men stationed in Saigon. The  
nce and decisions were not impres-  
numbers, but each member left feel-  
i's blessing upon those few precious  
Vietnam.

pore has a Communist mayor. Over  
a population is under 25 years of age.  
ne most cosmopolitan city we have  
ited. Tonight in the service we had  
s, Malayan, Dutch, Germans, Syrians,  
ndians, British, Eurasians, Indonesi-  
d Americans. What is there about  
in Christ that could be such a com-  
nominator for this group as well as  
avior? This answer can only be found  
love, His power, and His concern for  
o young Buddhists came to the Lord;  
Chinese scholar, a clerk, a public ac-  
nt, etc. This has all come to pass be-  
ou have prayed for a group of basket-  
ayers and the Lord has guided and  
their testimonies. One rule we saw  
ed for young Communists was this:  
ntiring in your exhortations." The  
members have had a combined total  
meetings plus 14 ball games in 10 days.

When we prayed with one young man at  
12:30 a. m., we saw the blessings of untir-  
ing exhortation of His word.

Here in Singapore we are playing in the  
Happy World. It is a big amusement park  
and adjoining the stadium is a huge taxi  
dance where hoodlums and prostitutes hang  
out. Many of the Christians will not come  
to this area. We have not refused to play  
here because this is the area where the  
Gospel is needed. These people would never  
go to a church . . . this is definitely  
reaching the unreached. I cannot imagine  
Christ not talking to the woman at the well.  
When we saw many of these youth at the  
decision meeting following the game . . .  
His words "neither do I condemn thee, go  
and sin no more," were real again.

Now we are on our way to Kuala Lumpur  
in the Malaya Federation. It is positively  
against the law here to witness or preach to  
a Moslem. For the first time in history they  
have waived this law in the stadium when  
the basketball team presents its halftime  
program. Unusual opportunities, challeng-  
ing people—again a great and effectual door  
has been opened. We believe that His word  
will not return void but will accomplish the  
purpose wherefore it is sent.

The team has played 52 games and last  
night beat the best in Singapore 100-55.  
The total attendance is approaching 200,000  
and every boy is well and busy with his  
responsibilities. Today at noon I addressed  
the Singapore Rotary Club with 200 men  
(including two Ambassadors) present repre-  
sented 24 countries. One was from Japan  
and the other from East Germany. One  
stated to me, "The sincerity of your message  
assures me that there is still hope." This  
hope is not in bombs, not in education, but  
in Him who said, "My peace I give unto you.  
Let not your heart be troubled, neither let it  
be afraid." This is the message being given  
forth by the Venture for Victory basketball  
team . . . we are your ambassadors of  
peace here in the Orient—playing, preaching,  
praying for His peace to reign in the hearts  
of men. . . .

For the cause of causes.

**DON J. ONLE,**

Director, Venture for Victory.

## Psychopolitics, the Basic Communist Tactic

### EXTENSION OF REMARKS

OF

**HON. EDGAR W. HIESTAND**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 12, 1958

**Mr. HIESTAND.** Mr. Speaker, under  
leave to extend my remarks in the REC-  
ord I include two additional articles by  
that great patriot, George Todt, of the  
North Hollywood, Calif., Valley Times.  
These articles outline the basic Com-  
munist tactic, psychopolitics, and should  
awaken all America to this grave threat.  
[From the North Hollywood (Calif.) Valley  
Times of Wednesday, July 30, 1958]

How COMMUNISTS EXPANDED

"There is treachery, O Abaziah."—II Kings  
IX: 23.

The balance of an infamous address made  
by Beria to American traitors at Lenin Uni-  
versity in 1936, as reported by ex-Communist  
Kenneth Goff in his book Brainwashing  
which was commenced in this column yes-  
terday, concludes as follows:

"Psychopolitics is a solemn charge. With  
it you can erase our enemies as insects.

You can cripple the efficiency of leaders by  
striking insanity into their families through  
the use of drugs. You can wipe them away  
with testimony as to their insanity. By our  
technologies you can even bring about in-  
sanity itself when they seem too resistive.

"You can change their loyalties by psy-  
chopolitics. Given a short time with a psy-  
chopolitician you can alter forever the  
loyalty of a soldier in our hands or a states-  
man or a leader in his own country, or you  
can destroy his mind.

"However, you labor under certain dan-  
gers. It may happen that remedies for our  
treatments may be discovered. It may hap-  
pen that a public hue and cry may arise  
against mental healing. It may thus occur  
that all mental healing might be placed in  
the hands of ministers and be taken out of  
the hands of our psychologists and psychia-  
trists. But the capitalistic thirst for con-  
trol, capitalistic inhumanity and a general  
public terror of insanity can be brought to  
guard against these things.

"But should they occur, should independ-  
ent researchers actually discover means to  
undo psychopolitical procedures, you must  
not rest, you must not eat or sleep, you  
must not stint one tiniest bit of available  
money to campaign against it, discredit it,  
strike it down, and render it void. For by  
an effective means all our actions and re-  
searches could be undone.

"In a capitalistic state you are aided on  
all sides by the corruption of the philosophy  
of man and the times. You will discover  
that everything will aid you in your cam-  
paign to seize, control, and use all mental  
healing to spread our doctrine and rid us  
of our enemies within their own borders.

"Use the courts, use the judges, use the  
Constitution of the country, use its medical  
societies and its laws to further our ends.  
Do not stint in your labor in this direction.  
And when you have succeeded you will dis-  
cover that you can now effect your own leg-  
islation at will and you can, by careful or-  
ganization of healing societies, by constant  
campaign about the terrors of society, by  
pretense as to your effectiveness make your  
capitalist himself, by his own appropriations,  
finance a large portion of the quiet Com-  
munist conquest of the Nation.

"By psychopolitics create chaos. Leave a  
nation leaderless. Kill our enemies. And  
bring to earth, through communism, the  
greatest peace man has ever known. Thank  
you."

That's what the man said. I will leave it  
to my readers to determine how prophetic  
some of his words may have turned out to  
be by this time. Incredible, isn't it?

However, students of contemporary his-  
tory need look no further back into the  
pages turned by old father time than the  
military debacles of such erstwhile strong  
nations as France in 1940 and China in 1948  
to see the fatal effects of quiescent penetra-  
tion in modern and machiavellian Trojan  
horse operations by 20th century exponents  
of the art of total war.

Never before has any alien philosophy of  
human mistreatment gained so much land  
and population for itself at such a low price  
as has the imperialistic Soviet Empire—al-  
most without firing a shot as it were. How  
have the barbaric and inhuman Communists  
managed to succeed beyond their wildest  
dreams in the beginning? Who would ever  
have dreamed that the nondescript band of  
human scavengers, which took over mother  
Russia in 1917 would dominate nearly half  
the world just 40 years later? And hold  
the balance of mankind in terror at the  
same moment?

What has happened to us?

The only honest answer to this pertinent  
question must lie in the persistent methods  
of infiltration used against us by the athe-  
istic and amoral Communist hordes. They  
have not beaten us to any large extent upon

1958

## CONGRESSIONAL RECORD — APPENDIX

A7357

the field of battle, so the answer has to lie elsewhere. We might as well face it: they have somehow very cunningly managed to infiltrate themselves, to our vast detriment, within the highest levels of Government and internal affairs.

That this happened to the United States in World War II is documented in Elizabeth Churchill Brown's famous book, *The Enemy at His Back*, a Bookmattler publication. Like Goff, Mrs. Brown—who is the writer-wife of columnist Constantine Brown, incidentally—evinces no naive surprise that our Government and most-prized institutions are the serious objects of Communist espionage and infiltration. Just the contrary. What is truly amazing is the typical American reaction that such things can't happen here. Cloak-and-dagger stuff, you know.

What do you think your reaction might be after reading these two eye-opening books for yourself? Why not try it and find out?

[From the North Hollywood (Calif.) Valley Times of July 30, 1958]

# "Psychopolitics" of the Communists

"As saith the proverb of the Ancients, Wickedness proceedeth from the wicked."—Samuel, XXIV. 13.

"The stupidity and narrowness of nations not blessed with Russian reasoning," says the official U. S. S. R. textbook on psychopolitics, "has caused them to rely upon practices which are, today, too ancient and outmoded for the heroic pace of our time. And in view of the tremendous advance of Russian culture in the field of mental technologies, begun with the glorious work of Pavlov and carried forward so ably by later Russians, it would be strange that an art and science would not evolve totally devoted to the aligning of loyalties and extracting the obedience of individuals and multitudes.

"Thus we see that psychopolitical procedures are a natural outgrowth of practices as old as man, practices which are current in every group of men throughout the world. Thus, in psychological procedures, there is no ethical problem, since it is obvious and evident that man is always coerced against his will to the greater good of the State, whether by economic means or indoctrination into the wishes and desires of the State.

"Basically, man is an animal. He is an animal which has been given a civilized veneer. Man is a collective animal, grouped together for his own protection before the threat of the environment. Those who so group and control him must then have in their possession specialized techniques to direct the vagaries and energies of the animal man toward greater efficiency in the accomplishment of the goals of the State.

"Psychopolitics, in one form or another, has long been used in Russia, but the subject is all but unknown outside the borders of our Nation, save only where we have carefully transplanted our information and where it is used for the greater good of the Nation.

The definition of psychopolitics follows:

"Psychopolitics is the art and science of asserting and maintaining dominion over the thoughts and loyalties of individuals, officers, bureaus, and masses; and the conquest of enemy nations through mental healing."

"The strength and power of psychopolitics cannot be overestimated, particularly when used in a nation decayed by pseudointellectualism, where exploitation of the masses combines readily with psychopolitical actions, and particularly where the greed of capitalistic or monarchical regimes has already brought about an overwhelming incidence of neurosis which can be employed as the groundwork for psychopolitical action and a psychopolitical corps.

"It is part of your mission, student, to prevent psychopolitical activity to the detri-

ment of the Russian state, just as it is your mission to carry forward in our Nation and outside it, if you are so assigned, the missions and goals of psychopolitics."

Elsewhere in this arresting book, I found such quotations from Bolshevik sources as the following:

"In this time of unlimited weapons, and in national antagonisms, where atomic war with capitalistic powers is possible, psychopolitics must act efficiently as never before.

"Any and all programs of psychopolitics must be increased to aid and abet the activities of other Communist agents throughout the nation in question.

"The failure of psychopolitics might well bring about the atomic bombing of the motherland.

"If psychopolitics succeeds in its mission throughout the capitalistic nations of the world, there will never be an atomic war, for Russia will have subjugated all her enemies.

"Communism has already spread across one-sixth of the inhabited world. Marxist doctrines have already penetrated the remainder. An extension of the Communist social order is everywhere victorious. The spread of communism has never been by force of battle, but by conquest of the mind. In psychopolitics we have refined this conquest to its last degree.

"The psychopolitical operative must succeed for his success means a world of peace. His failure might well mean the destruction of the civilized portions of Earth by atomic power in the hands of capitalistic madmen.

"The end thoroughly justifies the means. The degradation of populations is less inhuman than their destruction by atomic fission, for to an animal who lives only once, any life is sweeter than death.

"The end of war is the control of a conquered people. If a people can be conquered in the absence of war, the end of war will have been achieved without the destruction of war. A worthy goal.

"The psychopolitician has his reward in the nearly unlimited control of populations, in the uninhibited exercise of passion, and the glory of the Communist conquest over the stupidity of the enemies of the people."

I have quoted the above at length because I believe that no American citizen can reveal more effectively to his countrymen as to the nature of their enemy and just what they are facing presently on the world stage—and perhaps here at home as well—than the words which have emanated from the Russians themselves in this case.

This revealing insight comes at an appropriate moment—just as we are about to be hurled into a new summit conference with the masters of psychopolitics. Can we trust them?

## News of the "Nautilus" Is Needed Sedation

### EXTENSION OF REMARKS OF

HON. WILL E. NEAL

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 14, 1958

Mr. NEAL. Mr. Speaker, coming at a time when the nerves of this Nation are frayed from the harangue of those who are so committed to the belief that all is wrong with the United States, that we are outdistanced and outclassed by our potential enemies; the news, I should say the greatest news in these cold war years, of the *Nautilus* opens a new era,

should give great confidence and hope to all Americans. Greater than the Russian sputnik, yes; militarily much greater; possibilities unlimited, yes; perhaps, these and other similar superlatives fill the air in Washington and throughout the Nation. This, truly is good news. It is music to our tired and tender ears. This great news causes us to even hope that our critical friends, those "wandering Willies," those who are so bent on taking the administration to task about our lack of positive leadership today, and then to praising Soviet Russia tomorrow, may even quiet for a spell. It has puzzled many of us just how intelligent people could pose as opposing communism with one hand, and praising Soviet Russia with the other, could hope to make friends and influence people. Yet, for days, months, yes, and weary years this seems to be what has been happening. Boldly declaiming against communism, then following through by belittling everything that is American, and showing up the greatness of Soviet Russia, and expecting that our people, the products of our decadent capitalism and our outmoded American school system are falling so rapidly and so disastrously behind Russia; and apparently feeling that they would be accepted as true advocates of freedom and the rights of little people.

I am thinking today how early in the administration of President Eisenhower they insisted on what we then termed a "One hundred and thirty wing Air Force." That was when we used the old conventional World War II type planes. This same criticism of falling behind in our defenses was used. Suppose we had followed their thinking and stockpiled planes of that vintage. What value would they be today? Then later they pressured for us to try to match Russia sub-for-sub in the old-type submarine. Had we done this, what value would those old, clumsy, slow, only able to submerge for a few hours and limited mileage be worth to us today? Now we are told, as of this time, perhaps 20 vessels like the *Nautilus*, ready and waiting under the ice cap, would enable us to keep the peace of the world, with only such other defenses as we have in being today. Hail, *Nautilus*, and our highest compliments to those who have made her possible. Hail, also to the administration that has not been panicked by our "wandering Willies," who ostensibly oppose communism while praising Russia; who pose as patriots and at the same time try to discredit and change everything that is traditionally American.

The column, *The Nautilus Opens a New Era*, by David Lawrence, which appeared in the Washington Evening Star of August 11, is timely and I believe of interest, and I am pleased to include it herewith:

THE NAUTILUS OPENS A NEW ERA—POLAR FEAT, BARRING RUSSIAN HEARTLAND TO MISSILES, SEEN MAJOR UNITED STATES BLOW (By David Lawrence)

The United States Navy has done it again. It has revolutionized strategic warfare in the world today, as it has done several times in past history.

A7286

## CONGRESSIONAL RECORD — APPENDIX

August 14

# FACT SHEET ON TVA SELF-FINANCING BILL STATUS

Senate last summer passed S. 1869 (Kerr) by a bipartisan vote of 61 to 20. Voting for were 36 Democrats and 25 Republicans; voting against were 5 Democrats and 15 Republicans. Republicans voting for were Aiken, Allott, Barrett, Carlson, Case of New Jersey, Case of South Dakota, Cooper, Cotton, Curtis, Dirksen, Dworshak, Hruska, Ives, Javits, Knowland, Kuchel, Langer, Morton, Mundt, Purtell, Revercomb, Mrs. Smith, Thyne, Wiley, and Young. Democrats voting against were Byrd, Ellender, Ervin, Holland, and Pastore.

House Public Works Committee on July 30 favorably reported S. 1869, by a vote of 19 to 15. All Democrats were for, except Fallon (Maryland); all Republicans against except Mack (Washington).

## PURPOSE

To give the Tennessee Valley Authority the right to issue revenue bonds in the private money market to finance future power generating facilities in the TVA area. TVA has had no Federal appropriations for new power facilities since 1953, and is able to meet the power needs of 6 million people now only because it is using its revenues from the sale of electricity to finance construction of some 1,715,000 kilowatts of capacity. TVA must have another source of funds—and this bill would send TVA into the private money market for those funds.

The TVA Board of Directors—all Eisenhower appointees—issued a statement on July 29 that passage of S. 1869 "is urgently required to enable TVA to meet the growing defense and domestic demands for power in the area."

## BACKGROUND

Revenue-bond financing for TVA has been recommended by President Eisenhower in his last three budget messages. In January 1955, the President said: "TVA is giving immediate attention to the possibilities of financing further expansion of its power system by means other than Federal appropriations." In his 1956, 1957 and 1958 budget messages the President recommended that Congress pass such a bill, last January saying: "I hope that action on appropriate legislation will be speedily concluded in order that the Tennessee Valley Authority may be in a position to meet approved needs for new generating facilities." The administration favors revenue-bond financing because it does away with the need for Federal appropriations for TVA power.

TVA is the largest user of coal in the Nation, using some 20 million tons last year. Passage of this bill will further expand the market for coal, and will create jobs through construction of new steam electric generating units.

## FEATURES OF BILL

Substitutes revenue bond financing for Federal appropriations to finance normal electrical growth in Tennessee Valley. Sends TVA to private money market, through issuing revenue bonds which will be paid off, principal and interest, by power users in valley; which will not be obligations of United States Treasury; and which are subject to Federal income taxes. This bill will not require any appropriations.

In addition, TVA will make even larger cash payments to United States Treasury than are now required. Such payments will consist of (1) a yearly cash payment which would cover the Government's average cost of money on the amount of Treasury funds invested in TVA power; and (2) a \$10 million annual payment in reduction of the appropriation investment. At present, the total of these payments would amount to at least \$42 million a year which TVA would pay in cash into the Treasury, as a return on

and in reduction of the Government's appropriation investment.

Puts a ceiling of \$750 million on amount of bonds TVA may have outstanding at any one time. This is a 5- or 6-year program, and the ceiling makes it clear that TVA must come back to Congress within this period for further authorization, thus giving Congress a chance to review the success of revenue bond financing for TVA.

Maintains congressional control of TVA, but keeps TVA policy decisions in hands of TVA Board—where Congress placed responsibility—and not in hands of the Bureau of the Budget. Opponents of this bill (private power companies, United States Chamber of Commerce) have raised issue of adequate congressional control, but real issue is too much control of TVA by Budget Bureau and Secretary of Treasury. The TVA Board needs the management flexibility to issue bonds when they are needed, to secure the most favorable terms and to operate in the most economical and efficient manner.

Puts definite limitations for the first time on TVA's power service area, in general restricting TVA to counties now in Tennessee River drainage basin and TVA power service area. This more than cuts in half the amount of territory TVA could serve.

TVA will continue to submit its budget to the President, through the Budget Bureau, for transmittal to the Congress. This budget would include estimates on the amounts of bonds TVA planned to issue in the next fiscal year. In addition, Congress has the power to disapprove new TVA power producing projects, and Secretary of Treasury has the right to delay TVA bond issues for 3 months to prevent conflict with Treasury issues.

## SIGNIFICANCE

This is a life-and-death matter for TVA, which must have another source of funds for its power program since it has had no appropriations for new power capacity for 6 years. By the end of calendar year 1960 TVA's loads will be equal to the system's assured load-carrying ability, with no margin for unforeseen developments. By contrast, the normal private utility reserve margin is about 15 percent. Present estimates are that 600,000 to 1,200,000 kw should be added to the TVA system before the end of 1961. An official TVA statement declares: "It would be necessary . . . to begin construction expenditures early in fiscal year 1959 in order to have this capacity in service in the fall of 1961."

Private power companies, United States Chamber of Commerce, National Association of Manufacturers, Council of State Chambers of Commerce, and others are going all-out to kill this bill, because they want to kill any measure that would permit TVA to continue to function effectively. S. 1869 is a compromise bill, with its proponents already having agreed to many restrictive amendments. This compromise bill must be passed at this session of Congress—without further amendments.

## A Phase of the Communist Conspiracy

### EXTENSION OF REMARKS

OF

HON. EDGAR W. HIESTAND

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 12, 1958

Mr. HIESTAND. Mr. Speaker, under leave to extend my remarks in the Appendix of the Record, I include 2 of a

series of 6 articles, delineating a phase of the Communist conspiracy apparently not as yet recognized by much of America. These brilliant and important articles were written by a renowned Communist fighter, George Todt, of the North Hollywood, Calif., Valley Times, and appeared in that newspaper July 28 through August 2, 1958:

[From the North Hollywood (Calif.) Valley Times of July 28, 1958]

### RED THREAT TO MENTAL HEALTH PLAN

(By George Todt)

"By psychopolitics create chaos. Leave a nation leaderless. Kill our enemies. And bring to earth, through communism, the greatest peace man has ever known." (Beria, Lenin University address to American students, 1936.)

Well, the fat is in the fire. Last Friday, Senator Hugh F. Donnelly, Democrat, of Turlock, made the forthright accusation that mental health programs in the United States are part and parcel of a long-range Marxist scheme to seize control—through cunning, treachery, and stealth—of the minds of the people of our country in order to aid and abet the criminal Communist international conspiracy to set up a Red world government.

This came at a session of the State interim committee on education and wound up in a two-and-a-half-hour questioning of the man who has been administering mental health questionnaires in the Los Angeles school system, Dr. Wayne McMillen. He was brought to the local area by the Welfare Planning Council of Los Angeles to direct its mental health survey.

Now it is not the purpose of this article to go into the background of Dr. McMillen.

And it is not my purpose, either, to attack the principle of appropriate research and assistance to those unfortunate souls who have had their lives blighted with some form of mental health affliction. They deserve every help which we, their more fortunate brethren, can afford to give to them—and what is there that we cannot afford from our very hearts in this instance?

So put me down as a friend of those legitimate and sincere persons who are working hard to better the lives of those who have been afflicted with a terrible sickness that is beyond their powers to prevent or cure without the understanding sympathy and charity of their fellows. I will help carry the water for them any time I can be privileged to do so.

But at the same time, all of us must keep our eyes open and be alert to the possible infiltration of unworthy and even criminal types of mentalities into this kind of program which might attempt later to usurp its control to their own evil and wicked purposes.

Here I am referring to the Communist conspiracy specifically in all of its devious ramifications and overall plans of attack against the American people. For we must be defeated, utterly and completely, if the Communist dream of world domination may one day become reality. The Red warlords, while not shunning physical combat, would much prefer to gain our surrender by psychological means—through a weakening of our national will and determination to carry on the struggle against them—and this method has come to be known as psychopolitics. It is actually a phase of geopolitics, the study of which is not well enough known in the United States—although to such Marxist Socialist dictators as Adolf Hitler, Josef Stalin, Mao Tse-tung, Joseph Broz Tito, and their ilk, it was always considered a must when viewed from any angle. And it still is, of course.

Now what is psychopolitics, anyway? There is a considerable body of intelligent



Excerpts from a lecture by Allyn J. McDowell, M.D., before ARIZONANS FOR MENTAL FREEDOM, P. O. Box 7269, Phoenix 11, Arizona. Dr. McDowell is a Fellow of the American College of Surgeons, is a past president of the San Fernando Valley, California, Medical Society.

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### EVILS OF MENTAL HEALTH PROGRAM

The commitment procedures of the Mental Health legislation endanger the freedom and abrogate the Constitutional rights of every citizen.

The Fifth Amendment of the U. S. Constitution guarantees that no citizen shall be deprived of life, liberty, or property, without due process of law. The Sixth Amendment defines "due process" as including a public and speedy trial in the same district in which the alleged offense was committed, the right to confront your accuser, to call in your own witnesses and to have counsel. Nowhere does the Constitution say that these rights depend on your ability to prove your "mental health" to the satisfaction of some government-appointed psychiatrist.

The Draft Act, sponsored by the Mental Healthers, originated in the U. S. Department of Health Service, was passed by Congress and is in effect in a number of Federal Districts and institutions. Local mental health groups constantly lobby for its adoption by all state legislatures despite its having been declared unconstitutional by the Supreme Court of Missouri. It completely negates all Sixth Amendment rights by substituting a private hearing, by providing that the patient may not even have to be present at his own hearing, and that the court is not bound by the ordinary rules of evidence. Judge Joseph Call of the Los Angeles Superior Court, who has 25 years' experience (almost double the combined experience of all the U. S. Supreme Court Justices at the time of their appointments) also has declared the Draft Act to be unconstitutional.

You probably recall the case of Mary Jones, an employee of the Agriculture Department; who was dragged from her office over her screaming protests, and committed to a psychiatric institution. Why? Because she knew what was in the files about Billie Sol Estes. When her personal physician and her lawyer finally succeeded in having her examined, she was pronounced sane and released. The two government psychiatrists who had committed her were immune from any lawsuits: they had not even signed her commitment papers.

The case of General Edward Walker was even more scandalous. He was picked up on orders of a government psychiatrist one thousand miles distant, who made his "diagnosis" on biased news reports (later proved to be untrue), was transported by plane across state lines, committed without either a hearing or counsel. All this was possible under the Draft Act. By alleging him to be "mentally ill", all his Constitutional rights were wiped out. As a common criminal, his rights would have been observed. Because of his prominence, enough outside pressures developed to enable him to finally get a hearing. Non-government psychiatric examination proved him to be sane and "functioning at a superior level." Under cross-examination, the government psychiatrist admitted he had acted on Robert Kennedy's orders, and had he had full information, would have reached different conclusions.

Provisions of the Draft Act legislation in California make it possible for a citizen to be arbitrarily picked up, confined in a mental institution for up to six days, during which time he can be treated in any manner decreed by the person in charge of the institution. Mental Health enthusiasts protest that no one in charge of a mental institution would do anything not in the best interests of the patient. But I keep remembering Dr. Robert Sobel, supervising psychiatrist of a large mental hospital in New York, dispensed with the civil rights of patients for years until he was convicted of being a Soviet spy right out of Beria's ring. I don't want my civil rights or any treatment arbitrarily decided by one person like that!

### HOW MANY OF YOU KNOW WHAT YOUR OWN STATE COMMITMENT PROCEDURES ARE?

The Mental Health Clinic program is the ultimate in Socialized medicine. For practical purposes, they are under the direction of one person - the State Director of Mental Hygiene, a political appointee. In California, he need be neither a physician nor a citizen. Dr. Daniel Blain, California Director, claims that "the prevention of mental illness" is the primary goal of the clinics. This is a matter for deep concern, for when you start talking about preventing people from having "mentally ill" thoughts, attitudes and beliefs, you are shifting attention from the abnormal to the normal. The foot-in-door legislation provided for treatment of patients on a voluntary basis. A 1963 California law now provides that patients be

1958

## CONGRESSIONAL RECORD — APPENDIX

A7287

and well-educated opinion in our country today which holds that it is perhaps the greatest of all present threats to the traditional American way of life—built upon the free enterprise system and a concept of government through the consent of governed.

Perhaps one of the most illuminating works on this matter is a small book of large circulation by this time called *Brainwashing*, which is a synthesis of the official Russian textbook on psychopolitics. A complete address by the hated Beria, now liquidated by his erstwhile pals in the Kremlin, is set down verbatim as he gave it to a group of quivering American students of the course at Lenin University in 1936. The balance of the well-documented work gives us the hideous Bolshevik Communist concept of the way to bring the American people under Red domination through the fifth column strategy advocated in the book.

This revealing book may be obtained for \$1 by writing to Truth, Inc., P. O. Box 10188, Fort Worth, Tex. For those who want to know what all the shouting is about, this text can become a real eye opener into certain questionable activities now going on behind the scenes, in a manner of speaking. Whether one agrees or disagrees that this may be a menace to our Republic of the first magnitude, there is only one way to know how we think about it—and that is to read the Russian handbook on psychopolitics, itself.

The man who authored this work, called *Brainwashing*, was a dues-paying member of the Communist Party of the United States from May 2, 1936, to October 10, 1939. He operated under his own name of Kenneth Goff and also under the alias of John Keats. In 1939 he appeared voluntarily before the Un-American Activities Committee in Washington under Congressman MARTIN DRES, Democrat, of Texas. Goff's testimony may be found in volume 9 of that year's Congressional Report.

Read his book and find out what it reveals.

[From the North Hollywood (Calif.) Valley Times of July 29, 1958]

AS BOLSHEVIK BOSS PUTS IT  
(By George Godt)

"Treachery, though at first very cautious, in the end betrays itself."—Livy.

What was it that the cruel Beria, a sub-human Bolshevik high priest of modern Luciferianism before he was fortunately liquidated by his best friends several years ago in Moscow, had to say on the devilish science of psychopolitics to American quishings at Lenin University in 1936?

Why not give you his exact words, as reported by ex-Communist Kenneth Goff, in his amazing book *Brainwashing*, which is a synthesis of the official Russian textbook on psychopolitics? It may be obtained for \$1 from Truth, Inc., P. O. Box 10188, Fort Worth 14, Tex. Its contents are as fascinating as the gaze of a cobra from 3 feet away. Why not try it on for size? Here is one revealing excerpt from the book:

AN ADDRESS BY BERIA

"American students at the Lenin University, I welcome your attendance at these classes on psychopolitics.

"Psychopolitics is an important, if less known, division of geopolitics. It is less known because it must necessarily deal with highly educated personnel, the very top strata of mental healing.

"By psychopolitics our chief goals are effectively carried forward. To produce a maximum of chaos in the culture of the enemy is our first most important step. Our fruits are grown in chaos, distrust, economic depression, and scientific turmoil. At last a weary populace can seek peace only in our offered Communist state; at last only communism can resolve the problems of the masses.

"A psychopolitician must work hard to produce the maximum chaos in the fields of mental healing. He must recruit and use all the agencies and facilities of mental healing. He must labor to increase the personnel and facilities of mental healing until at last the entire field of mental science is entirely dominated by Communist principles and desires.

"To achieve these goals the psychopolitician must crush every homegrown variety of mental healing in America. Actual teachings of James, Eddy, and Pentecostal Bible faith healers among your misguided people must be swept aside. They must be discredited, defamed, arrested, stamped upon even by their own Government until there is no credit in them and only Communist-oriented healing remains. You must work until every teacher of psychology unknowingly or knowingly teaches only Communist doctrine under the guise of psychology. You must labor until every doctor and psychiatrist is either a psychopolitician or an unwitting assistant of our aims.

"You must labor until we have domination over the minds and bodies of every important person in your Nation. You must achieve such disrepute for the state of insanity and such authority over its pronouncement that not one statement so labeled could again be given credence by the people. You must work until suicide arising from mental imbalance is common and calls forth no general investigation or remark.

"With the institutions for the insane you have in your country which can hold a million persons and can hold them without civil rights or any hope of freedom. And upon these people can be practiced shock and surgery so that never again will they draw a sane breath. You must make these treatments common and accepted. And you must sweep aside any treatment or any group of persons seeking to treat by effective means.

"You must dominate as respected men the fields of psychiatry and psychology. You must dominate the hospitals and universities. You must carry forward the myth that only a European doctor is competent in the field of insanity and thus excuse among you the high incidence of foreign birth and training. If and when we seize Vienna you shall then have a common ground of meeting and can come and take your instructions as worshippers of Freud along with other psychiatrists."

Hon. William S. Hill

SPEECH  
OF

HON. HAROLD C. OSTERTAG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 7, 1958

Mr. OSTERTAG. Mr. Speaker, it is a privilege and an honor to join with my colleagues in paying tribute to an outstanding, devoted Congressman, and a true and loyal friend who is retiring this year from Congress. I am speaking of the Honorable WILLIAM S. HILL—or BILL HILL, as we all know him—of the State of Colorado.

In his 18 years here in the Congress, BILL HILL has established a reputation and a record which have earned for him the admiration, respect, and affection of us all. So it is with sincere regret that

we see him leave the Congress this year. This body needs men like BILL HILL.

We all know of his outstanding contributions as a ranking member of the Committee on Agriculture and the Committee on Small Business. Bill is highly qualified by experience and training for his service on both of these important committees.

But in addition to experience and training, Representative HILL also is highly qualified for his service here by temperament and disposition. He has a great wealth of understanding and tolerance, and a pleasant sense of humor. All these attributes are very serviceable here. For, despite all the pressures and hectic activity here, BILL HILL always maintains a sound perspective on the overall requirements and responsibilities of the Congress.

These very warm and human attributes do not prevent him from being forceful and direct on issues before the Congress, however. He constantly demonstrates his enthusiastic devotion to his responsibilities here and to the interests of his constituents in Colorado; he maintains a standard of high principles and his actions are based on them.

I am going to miss the friendly companionship, the good commonsense, and the inspiration for better service which BILL HILL provides. He and his wonderful wife plan to return to Colorado to enjoy all year around the wonders of that colorful State. Our very best wishes and sincere affection go with them and we all hope they will continue to have a very fruitful and rewarding life among the friends and neighbors whom they represented in such outstanding fashion in Congress for all these years.

# The Catholic War Veterans of the United States of America and Auxiliary Hold 23d National Convention

## EXTENSION OF REMARKS

OF

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 8, 1958

Mr. BROYHILL. Mr. Speaker, I am pleased to report that the 23d national convention of the Catholic War Veterans of the United States of America and its auxiliary is scheduled to be held August 13 to 17, at the Hotel Statler, Washington, D. C.

I am glad to give them a hearty welcome to the Nation's Capital, and to wish them a fruitful convention. I feel sure that my colleagues extend a like hand of welcome to the thousands of officers, delegates, and members who will convene here, and to their families and friends from among 40 of our States.

One of the larger veterans organizations of our country, the Catholic War Veterans and its auxiliary constitute a powerful force for peace in America and throughout the world. They have long been active in civic and patriotic affairs through their own and with other vet-

Page 2.

treated on an involuntary basis, whether they want to be treated or not. With the ante from the state raised from 50% to 75% of the cost, more bureaucratic control can be expected.

President Kennedy's multi-million dollar network of clinics to be set up in every city and town under bills currently in Congress, will be authorized, under the vague definition of "mental health", to scrutinize and correct your thoughts and beliefs, with or without your consent. These clinics, subsidized and controlled with Federal money, will be staffed with government employees with the mission of preventing you from having "mentally ill" thoughts. I think you must admit that even Hitler never had it so good. You ought to be inspired to think that it is only going to cost you a few hundred million more per year.

The tie-in of these clinics with the Mental Health programs in the schools is another cause for concern. Through the National Education Association's position on the Joint Commission on Mental Health, the doctrines of UNESCO and world government appear in our classrooms, despite laws which prohibit teaching world government. This is in the guise of Social Health in the Health Readers. Teachers are warned of the challenging problem of the 10% of their pupils who will become mentally ill unless prevented by the Mental Health program; the Mental Health corrective therapy turns out to be the same old left wing UNESCO-World Government propaganda. In California, the Department of Mental Hygiene actually collaborates with the Department of Education in writing tests. We find many tests have nothing to do with scholastic improvement, but do pry into political and religious beliefs.

NOTE: From Budget Analysis of California (1961): In reporting on Dept. of Mental Hygiene's request for money to set up "convalescent leave medical service" as new part of Mental Health program, it was recommended that the huge sums of money not be appropriated because there was "no overall plan or unified program" at all. "Experience indicates that these programs reach a multi-million dollar stage within a relatively few years and that unnecessary duplication, improper co-ordination and lack of proper valuation of program potentials" prevent full realization of proposed benefits. "The program should not be considered until the Department has carefully outlined its proposed plan for evaluation showing specific methods and procedures to be involved."

The Report recommended deferment until the Department had prepared a study for the Legislature "outlining a procedure which will clearly define the area of responsibility, provide a single and clear line of administration, explain the method to be used for evaluation, and show the needs, available resources, and the program potentials in this area of Community mental health services." THERE IS A LESSON IN THIS FOR EVERY STATE LEGISLATURE AND FOR CONGRESS.

#### COMMUNIST INFLUENCE IN THE AMERICAN MENTAL HEALTH MOVEMENT

One of the top officials in the world organization from which Mental Health legislation emanates is Dr. G. Brock Chisholm. While I do not contend that he is a member of the Communist Party, his philosophy calls for, freely and in sophisticated terms, the main key points of Communism, namely: an amoral society, ridicule of the family, of religion and of patriotism, ruthless worldwide police force and re-distribution of wealth. Mental Health enthusiasts decry as preposterous the many documented charges of Communists being active in the movement; in fact, they don't want to discuss such "irresponsible" criticisms. But there are plenty such connections.

Dr. Julius Schreiber, head of the Mental Health Association in Washington, and Board member of the National Association for Mental Health, became Chief of our Armed Forces Information and Educational Services during World War II. The Senate Internal Security Subcommittee found that pro-Communists had seized control of this program and that Dr. Schreiber was one of those teaching our troops the wrong things about Communism; in fact, he was the fountainhead of such indoctrination. When subpoenaed in 1955, he and four assistants took the Fifth Amendment. One of those assistants, Dr. Hyman Forstenzer, also a Board member of the National Association for Mental Health, and later Director of New York state's Community Health Service, was identified under oath by Dr. Bella Dodd as a member of the Communist party.

Dr. Joseph Wortis managed a research and treatment laboratory at Bellevue Psychiatric Hospital, was on the faculty of Johns Hopkins and is still on the staff of New York State University. Since 1958 he has been a consultant for the Children's Bureau of the U. S. Department of Health, Education and Welfare. But in addition he taught at the Jefferson School

1) of Social Science, the principal Communist school of the United States, belonged to Communist fronts, wrote for Communist publications and, an "authority" on Mental Health, introduced electric shock treatment in this country. He was top psychiatrist for War Shipping.

3-2) Two other Board members, Dr. Margaret Meade and Lawrence Frank, were instrumental in helping Dr. Mark Zobrowsky of Russia obtain a \$24,000 grant from U. S. Public Health Service. When Zobrowsky was subpoenaed by the State Internal Security Subcommittee in 1956, he admitted being a former agent of the NKVD, Soviet Secret Police. He was recently convicted of perjury for denying that he was still a Soviet agent, after having been identified as a counterspy.

3-3) Dr. Wayne McMillen, instrumental in establishing California's Short-Doyle mental clinics, was found to have belonged to eleven Communist fronts, including the Soviet-American Friendship Council, which he joined immediately after it was designated subversive by the H.C.U.A. for being a "direct agent of the Soviet Union engaged in traitorous activities." He claimed being unable to remember about his membership on the Committee to free Earl Browder. Is anyone who cannot recall such an activity qualified to judge the mental health of three million people in Los Angeles? Or is another doctor who has been identified by numerous witnesses as a Communist qualified to be on the Board of Clinics for Los Angeles Mentally Ill Children??

1) These are only a few of the Bell Ringers for Mental Health. Should you ask your neighborhood volunteers to define Mental Health or Mental Illness, probably none could answer, since there has never been a concise or meaningful definition of those terms. But 20% of the money they collect will be sent to state and national associations, where it will be put to good use under the direction of such people as Dr. Julius Schreiber, Margaret Meade and Lawrence Frank.

#### MENTAL HEALTH BACKGROUND

5) There is considerable overlap between the medical field of psychiatry and the political "Mental Health" movement, but they are not synonymous. The International World Federation for Mental Health is represented in the United States by the National Association for Mental Health. The fountainhead of Mental Health legislation is the World Health Organization; the propaganda arms are the state and local associations. The guiding influence in the founding of the World Health Organization was the American identified Communist, Alger Hiss. The Canadian psychiatrist, Dr. G. Brock Chisholm, headed both the World Health Organization and the World Federation for Mental Health and his philosophy permeates both. Dr. Chisholm recommends the "eradication of the concept of right and wrong" and attributed to this concept of morality the necessity to fight even "defensive wars." Tied in with UNESCO, the credo advocates acceptance of world government as the basis for "Mental Health."

6) The Mental Health program embraces Freudian psycho-analysis. Patients are indoctrinated with the Freudian philosophy of personal irresponsibility, based on the idea that a man is a weak, irresolute, irresponsible creature, who is not at fault when he errs, since society is the culprit. Richard La Pierre, Sociology Professor at Stanford University, in his book "The Freudian Ethic", points out that acceptance of this doctrine of determinism and irresponsibility is what has led us into embracing the fallacies of progressive education, Socialism, the welfare state and the condonement of crime. It might also explain why the Mental Health movement is heavily dominated by left-wingers.

8) Directors of the two big companies that publish psychological tests include members of the Board of the World Federation of Mental Health. Questions from these tests illustrate the subtle means employed by psychiatrists and sociologists who disseminate internationalist propaganda and undermine and destroy patriotism and Christian faith in God. Samples - "How much money would you want to spit on the crucifix, eat a pound of human flesh, or desecrate a church service?" Which is worse, spitting on the Bible or spitting on the American flag? These give the student a choice between God and country, but do not permit him to have both.

9) The U. S. Public Health Service is also part of the movement, so you will find local Health Department officials pushing the programs. The Joint Commission on Mental Health is a sort of quasi-official grouping which includes various psychiatric associations, and more importantly for students, the National Education Association. The NEA can funnel in "psychological tests" which indoctrinate students with such propaganda as "Man has no soul or spirit; he is just a superior animal with nothing but a physical body." (Karl Marx) "Values are all relative; there are no absolute



Page 4.

standards of right and wrong." (Dr. G. Brock Chisholm) "Religion is merely a crutch for insecure people to rely on." (Freud) I fail to see how this adds up to produce mentally healthy adults.

\*\*\*\*\*

### CONCLUSIONS

- 2) By means of slanted propaganda and fraudulent statements, the Mental Health needs and treatment possibilities have been grossly misrepresented. According to the National Association's own figures, LESS THAN 2% OF ALL PATIENTS ARE MENTALLY ILL! The big "selling point" used by Mental Health is that it prevents "mental illness." Yet, the Legislative audit in February 1963 noted that an experimental psychotherapy program had cost California taxpayers 3-1/4 million dollars for the treatment of 1600 juvenile delinquents, or an average of \$2,000 per case. The report continues that as far as can be determined, the psycho-therapy had no bearing on the social or personal adjustment of the individuals.

Nowhere in the proposed legislation is "mental illness", "mental health", or "retardation" defined. No provision is made to exclude Communists, aliens, or other undesirables from the staffs of proposed clinics. There is no indication whether patients will be voluntary nor under what circumstances they will be committed to mental institutions, or have experimental research conducted upon them. By transferring allotments from state to state, the way is opened to transfer patients. By transferring "retardation funds" to Mental Health Funds, the latter appropriates those funds. By not designating the source of the one-third matching funds, the way is open for Socialistic tax-free Foundations to dominate local programs.

- 4) LEARN the facts about this program and the purposes of the people who are promoting it. Use only documented sources and avoid making irresponsible charges. There is ample documentation available. You may want to read the following books: SIXTEENTH REPORT - California Investigating Committee on Education 1957. THE BRAIN WATCHERS by Martin L. Gross, MENTAL ROBOTS by Dr. L. A. Alesen. TECHNIQUES OF COMMUNISM by Louis Budenz; CONQUEST OF THE AMERICAN MIND by Wittmer. PREJUDICE AND THE PRESS by Frank Hughes. THE FREUDIAN ETHICS by Richard La Pierra. PSYCHIATRY AND RESPONSIBILITY by Schoeck & Wiggins, editors. BRAINWASHING by Edward Hunter.

SUPPORT the Association of American Physicians and Surgeons, the American Legion and other patriotic groups in recommending that Congress table all Mental Health legislation until the movement is investigated.

- 5) At present (July 1963) the Senate has already passed the dangerous Socialistic S.B. 1576. H.R. 3386 is now in the House Ways & Means Committee, Hon. Wilbur Mills, Chairman. Fortunately, Congressmen James Utt, Bruce Alger, Jackson Betts and Victor Knox are on this Committee. H.R. 3688 and H.R. 3689 are in the Rules Committee, Hon. Howard W. Smith, Chairman.

WRITE members of these two Committees and your own Representatives protesting these and all Mental Health Bills that give a small group of Washington bureaucrats untold power over your minds and lives.

THE NETWORK OF PATRIOTIC LETTER WRITERS, BOX 2003D, PASADENA, CALIFORNIA 91105

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# THE THERAPEUTIC STATE

Psychiatry in the Mirror of Current Events

Thomas Szasz



**Prometheus Books**

700 East Amherst St. Buffalo, New York 14215

## CONTENTS

Acknowledgment 7

Preface 9

### I. "Mental Illness" 11

The Myth of Mental Illness 13 / Medicine and Madness 16  
Models of Madness 22 / A Critical Look at Psychiatry 28  
Psychiatric Fraud 32 / The Devil's Fool 36 / Was Virginia Woolf  
Mad? 39 / Pilgrim's Regress 42 / Freud 46 / Shooting the  
Shrink 50

### II. Mental Health Policy 55

Involuntary Psychiatry 56 / The ACLU's Mental Illness Cop-  
Out 58 / The ACLU and Involuntary Mental Hospitalization 67  
Condoning Psychiatric Slavery 69 / The Right to Die 74  
State Mental Hospitals: Orphanages for Adults 77 / "Back  
Wards to Back Streets" 81 / The Lady in the Box 85 / Why Do  
We Fear the Retarded? 87 / Your Last Will and Your Free  
Will 90 / Dishonoring Tennessee Williams 93 / Psychiatric Self-  
Defense 96 / Psychosurgery: Aborting Unwanted Behavior  
103 / The Electroshock Dilemma 108 / Terror by Tylenol 114  
The Church of America 116

### III. The Insanity Defense 119

Some Call It Brainwashing 120 / Mercenary Psychiatry 123  
Reply to Louis West 126 / Twice Brainwashed 127 / The  
Psychiatrist as Accomplice 130 / The Torsney Scandal 134  
How Dan White Got Away with Murder 137 / Reagan's  
"Diagnosing" Hinckley 147 / The Case of John Hinckley 149  
On Hinckley's "Innocence by Insanity" 152 / Writing People  
Off as Crazy 155

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In the November 1969 issue of the *International Journal of Psychiatry*, Mike Gorman, then the celebrated executive director of the National Committee Against Mental Illness, published a report entitled "Soviet Psychiatry and the Russian Citizen." To call Gorman's article adulatory would be an understatement. A single quotation from it should suffice to illustrate his views: "Leaving aside the paramount virtue of a psychiatric system that brings a high quality of care to all those in trouble without any invidious economic distinctions, it is my considered opinion that the tailoring of psychiatric care in all kinds of settings—in the school, in the factory, in the dispensary, in the emergency services, in the home—to the individual needs of each patient is the crowning achievement of Soviet psychiatry."

Gorman's own crowning achievement as a mental health propagandist was, of course, that in listing all the "settings" in which Russian psychiatrists dispense their cures, he managed to omit the two most important ones: the courtroom and the psychiatric concentration camp called "special hospital." In addition, it was no doubt also an achievement, testifying to Gorman's own mental health, that he could sleep at night while deliberately covering up for the crimes of the psychiatric Robespierres and Marats of his beloved Soviet mental health system.

Accompanying Gorman's article was a "critical evaluation" of it by Zigmond Lebensohn, a card-carrying institutional psychiatrist and longtime spokesman for APA policies. "As a Gorman-watcher of many years standing," wrote Lebensohn, "I read his paper and could hardly believe my eyes! Gone were the sharp barbs and telling innuendoes, which have characterized so many of his diatribes on practically all aspects of psychiatry in the United States. Instead, we find him in a mellow and expansive mood, describing Soviet psychiatry in roseate terms with enthusiasm, eulogy, and panegyrics."

In the late 1960s, Gorman was, of course, articulating the then "correct" American psychiatric position on Russian psychiatry. His voice was in perfect harmony with the views of leading American psychiatrists and the APA. For example, in 1968 Dr. Ari Kiev, a recognized expert on Soviet psychiatry, edited and contributed two chapters to a book entitled *Psychiatry in the Communist World*, in which there is not a single reference, however oblique, to the psychiatric incarceration of political dissenters. (Both the Tarsis case and the case of General Petro Grigorenko had at that time already been widely reported in the newspapers.) In 1969, Dr. Kiev published an article in the magazine *Attitude* reviewing Soviet psychiatric theory and practice, again without any reference to the psychiatric abuses.

I should like to pause here in my presentation of the evidence against American psychiatry's posture vis-à-vis Soviet psychiatry and note that, even before 1970, the American mental-health establishment's hypocrisy on this subject was glaringly obvious. When American newspapermen then looked at Soviet psychiatry, they saw its horrors clearly and reported them honestly. In December 1969, for example, *Time* magazine ran a piece entitled "Dissent

= Insanity," reporting on General Grigorenko's psychiatric persecution. On February 2, 1970, *Parade* magazine published a long essay by Lloyd Shearer denouncing Soviet psychiatric atrocities. However, when American psychiatrists and mental health experts looked at the same scene, all they saw was a Russian psychiatric paradise, which Americans could not emulate fast enough.

To appreciate fully the APA's support of Soviet psychiatric practices, it is necessary now to name two of the leading Soviet psychiatrists responsible for them. The highest-ranking, best-known, and most influential psychiatrist in the Soviet Union is Professor Andrei V. Snezhnevsky, director of the Institute of Psychiatry of the Academy of Medical Sciences. All Russian critics of Soviet psychiatry identify Snezhnevsky as the person most responsible for the psychiatric persecution of dissidents. In 1970, at the annual meeting of the APA held in San Francisco, the association honored Snezhnevsky by naming him a "distinguished fellow" for his "outstanding contribution to psychiatry and related sciences." Also named as a "distinguished fellow" was Dr. Boris Lebedev, the director of the World Health Organization's project on "Psychiatric Diagnosis, Classification, and Statistics," who has also been identified as a leading figure in the psychiatric disposition of dissidents.

Viewed against this background, it is not surprising that something less than resounding success has met the efforts of some groups to secure the condemnation of Soviet psychiatric abuses by official Western psychiatric bodies. One of the earliest such attempts was a January 1971 report by a committee of the Canadian Psychiatric Association, which condemned "the alleged wrongful detention in mental hospitals in the USSR of seemingly healthy individuals whose views and attitudes are in conflict with those of the regime." That report became the nucleus of a more broadly based effort to pass a resolution at the fifth congress of the World Psychiatric Association (WPA), meeting in Mexico City in November 1971. The attempt was foiled by the Russian and pro-Russian forces in the WPA, led by its secretary-general, the British psychiatrist Dr. Denis Leigh, whose concluding report declared: "Nowhere in the statutes is there any mention of the WPA making itself responsible for the ethical aspects of psychiatry."

Dr. Leigh did not have long to wait for his reward for that intervention. The following year, both Dr. Leigh and Professor Linford Rees, the treasurer of the WPA, were made honorary members of the All-Union Society of Neurologists and Psychiatrists. According to Sidney Bloch and Peter Reddaway (about whose book *Psychiatric Terror* more later), Leigh at that time asserted "that in his opinion the campaign against Soviet abuse was a sophisticated and expensively organized operation, with CIA participation; that he doubted the authenticity of the evidence; and that [Vladimir] Bukovsky [one of the psychiatrically incarcerated dissidents] was indeed a schizophrenic, or at any rate had a history of the condition." Professor Snezhnevsky concurred:



## 222 Psychiatry in the USSR

"It [the attempt to condemn alleged Soviet psychiatric abuses] is a 'cold war' maneuver carried out by expert hands."

In 1973, in an interview in the *Observer*, Leigh explained his position in this way: "We [the WPA] are not concerned with political matters. . . . Schizophrenia is the most important topic in psychiatry. It's the scourge of the world. The Russians have about 200 people researching it and they have a good chance of solving it. That's all there is to it."

Sean MacBride, chairman of Amnesty International at the time, supported Leigh and the Russians, declaring: "I think there has been a good deal of exaggeration in the foreign press reports in regard to the extent, if any, to which psychiatric hospitals are being used in dealing with political prisoners."

During the years since then, the popular as well as the psychiatric press have continued their campaign of selective indignation and protest. Typically, articles in the popular press would condemn Soviet emigration policies preventing Russian Jews from leaving the country; the writers of such articles must believe that it is quite proper for the Soviet government to prevent Russian Christians from leaving their country. Similarly, articles in both the popular press and in psychiatric journals would condemn Soviet mental health policies preventing Russian dissidents from leaving mental hospitals; the writers of such articles must likewise believe that it is quite proper for the Soviet government to prevent Russian nondissidents from leaving mental hospitals. That the Soviet Union is a police state—that it is, as it were, one big prison, concentration camp, or mental hospital—is a fact at once too simple, obvious, and unpalatable for many observers of the contemporary political and psychiatric scene to admit.

At long last, on September 1, 1977, Western psychiatry won a Pyrrhic victory over Soviet psychiatry. At the sixth congress of the WPA, meeting in Honolulu, the British Royal College of Psychiatrists introduced a resolution condemning "the systematic abuse of psychiatry for political purposes in the USSR." The General Assembly of the WPA passed that resolution by a vote of 90 to 88.

In August 1977, I was on a lecture tour in Australia. Anticipating just such an outcome in the tragi-comic struggle between the forces of psychiatric good and evil, I repeatedly called attention to the basic similarities between institutional psychiatry on both sides of the Iron Curtain. After the resounding victory of the forces of good over evil in Honolulu, Frank Knöpfelmacher, professor of psychology at Melbourne University, offered the following comments on the crucial similarities, and differences, between the political-psychiatric situation in Russia and America:

In a strict sense there is not much difference between Soviet and American psychiatry in terms of moral rectitude and intellectual probity, as Szasz was fully justified in pointing out. As professions, they are both much of a much-kind. This may very well be the reason why the Western psychiatric profession

showed its now notorious reluctance to condemn Soviet psychiatry, and why they had to be shamed from without, sometimes by the most elaborate methods, to "protest." The difference between our own and Soviet uses of psychiatry lies elsewhere.

It is a very complex difference but its gist can be indicated thus. Unlike General Grigorenko and the psychiatrist [Semyon] Gluzman, who revealed the uses of Soviet psychiatry, Senator Goldwater and Thomas Szasz are not in concentration camps. And they certainly do not depend for their physical survival on pleas and protests from the psychiatrists of the Serbsky Institute [one of the notorious Soviet "special hospitals"].

However obvious they might be, certain elementary facts about Soviet society must be stated and restated, lest one succumb to the temptation to engage in the debate between Soviet psychiatrists and their Western critics on their own false terms. Russia is a closed society: One cannot leave it at will. In Russia, the state is the psychiatrist's only employer. Soviet psychiatrists work for the state—or get out (if they can), or get locked up (as insane). In Russia, rejecting the moral and political principles of Marxism and Communism is regarded as a characteristic symptom of schizophrenia; the Russian psychiatrist may be quite "sincere" in believing that dissidents are demented.

It is clear, then, that from a libertarian viewpoint the line between the Soviet uses and abuses of psychiatry is an invisible one. *All* of Soviet psychiatry is an instrument of the political power of the Soviet state, just as *most* of our psychiatry is an instrument of the political power of the American state. Wrenching analyses of psychiatric practices out of their historical, economic, and political contexts is an exercise not only in futility but also in foolishness.

INTERNATIONAL

# Inside a Mind Jail

A Soviet dissident gets the treatment at a mental hospital in Moscow

BY JOYCE BARNATHAN  
Moscow Bureau Chief

**T**he shabby white building is nearly hidden by an imposing wall on a quiet back street in Moscow. Only the horizontal bars on its windows set it apart. A sign marks the single public entrance in the wall: Central Moscow Provincial Clinical Psychiatric Hospital. A muddy path leads past a construction site, some ambulances and garages. In front of the building sit women of all ages. Many wear hospital gowns. Some stare into space listlessly. Others chat. Inside, among the mentally ill, is 53-year-old Serafim Yevsyukov, a little-known Soviet dissident. Like many others who have undergone psychiatric "treatment" in the Soviet Union, he is quite sane.

He sits in self-imposed silence in his room on the all-male third floor. Two beefy women guard the entrance to the floor. There are no door-knobs in the building; nurses carry them in their pockets so they can lock patients into their rooms more easily. Institutional green walls make a gloomy backdrop for the few patients permitted to sit in the corridor during visiting hours. When his daughter, Lyudmila, 25, arrived recently for one of her daily visits, Yevsyukov was hunched over on a ratty couch in the corner.

"How do you feel, Papa?" Lyudmila asked, full of respect.

"I feel tired," he said, speaking sluggishly. "The injections make you want to do nothing, to think about nothing. I am always tired."

While Mikhail Gorbachev courts the West over arms control and the superpowers mark the 11th anniversary of the Helsinki accords, the Yevsyukov case demonstrates the Soviet Union's continued callousness toward human rights. Yev-

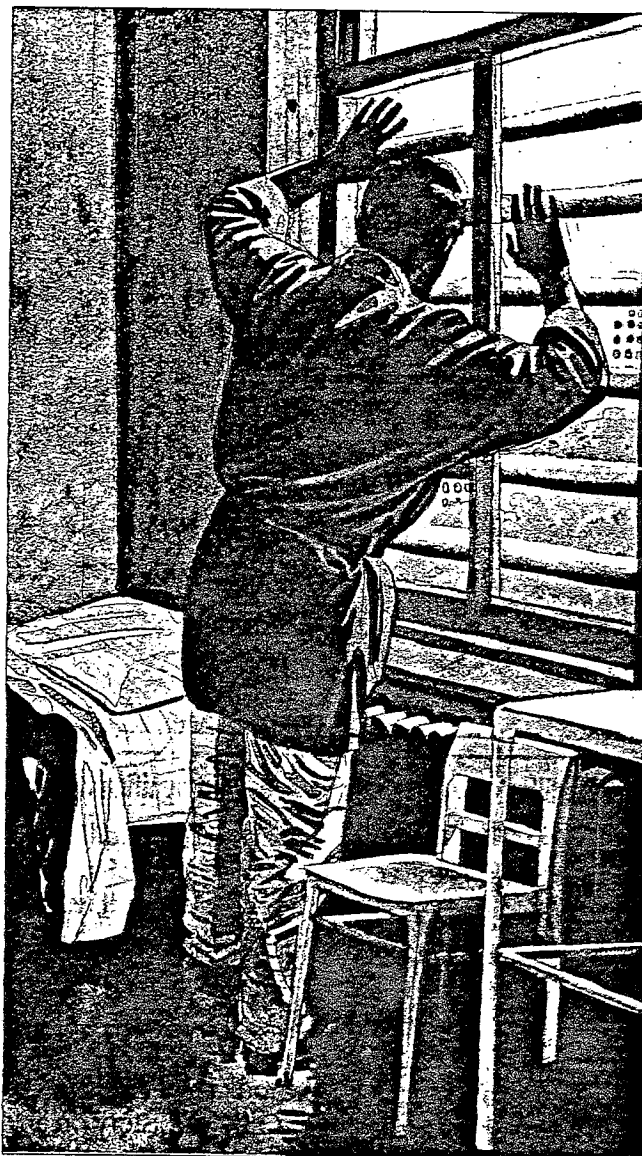
syukov is a former Aeroflot navigator who, during the Khrushchev era, had traveled abroad, occasionally even to the West. In 1978 he quit his job and filed a petition to emigrate. Two years later he lost his subsequent job as an airport engineer. His case is not one that would draw much attention. He is not Jewish. He is not a political activist. He has no relatives in the West. He and

nounced him sane. Earlier, in April 1985, his request for an exit visa brought him three days at the Central Psychiatric Hospital. First a bureaucrat had assured him that a visa would be granted if he obtained an invitation from the Dutch Embassy. When Yevsyukov protested that access to the embassy was blocked by militia guards, the bureaucrat gave him his "hon-

his family simply have decided they want no part of their country and would prefer to leave.

He was picked up on his way to a weekly family protest against the imprisonment of his 24-year-old son, also named Serafim. The young man had already served a 2½-year sentence in Siberia for draft sion; he refused to serve in military of a country he mandated to leave. After his release Serafim again refused to serve, and he was sentenced to another three years. Once a week his father, mother and sister would protest by standing in front of the Pushkin monument in downtown Moscow, wearing badges with young Serafim's name on them. The protest drew some modest attention when the family's plight was featured in a broadcast by Radio Liberty in May. Last month KGB agents arrested Yevsyukov at a railway station en route to the monument. First they took him to a militia station and used a razor blade to rip his son's prison name tag from Yevsyukov's shirt. Then they moved him to the hospital. It took his family two days to find out where he was being kept.

**Word of honor:** It was the third time that Yevsyukov had been taken before psychiatrists. He was picked up by the police in June as he awaited the return from the United States of Soviet dissident Yelena Bonner at Moscow's Sheremetyevo airport. According to Lyudmila, he was taken to a militia office where a psychiatrist pro-



ILLUSTRATIONS BY JULIAN ALLEN

Behind bars: A wave goodbye from a hospital cell

est party word" that his entry would be permitted. Then, when he showed up at the embassy, he was hauled away to the mental hospital.

This time around Yevsyukov was sharing a room with 13 others, all of them mentally ill, when his daughter made her visit. His wife did not go because she always wears her son's name tag—and suspects that she, too, will be locked up or questioned if she pays a call. Half a dozen roommates sprawled out on narrow beds, never uttering a sound. The barred windows in the barren room were closed on a warm summer's day. The patients are shaved twice a week; Yevsyukov sported a day-old beard. According to Lyudmila, her father had not been permitted to shower or receive fresh bed linen or clothes for 10 days. Forbidden to wear civilian clothes, he had on white cotton pajamas and a stained dark brown robe. He was not wearing his glasses because glass is forbidden in the hospital. He had no appetite for the kasha and cabbage soup served to him—nor for the fresh apricots his daughter had brought.

**Getting rough:** A male *sanitar* (orderly) keeps close tabs on Yevsyukov's limited movements. Pale, blond and hulking, the *sanitar* sits on a chair facing the special-security room, where Yevsyukov resides. He always positions himself to be directly across from Yevsyukov's bed. "He will not let me exercise, even in bed," Yevsyukov whispers. The *sanitar* is sitting just five feet away, only barely out of earshot. "He will not let me sit on the couch in the corridor when there are no visitors. He allows only two of us in the toilet at once. And from the toilet he makes sure I return straight to the room. I can take no walks. Most of the day, I just lie in bed."

Sometimes his warders get rough with him. Two days earlier a nurse had insisted that Yevsyukov swallow pills, which he says are numbing. He refused, shutting his jaw tight. They first tried jamming the pills into his mouth. Then the orderly strapped him to the bed and employed two mentally ill inmates to help hold him down while they closed his nostrils and tried to force him to open his mouth. His nose bled. Finally they gave up and injected him instead—with a promise to repeat the process if he refused the pills the next time.

Seven days into his confinement, Yevsyukov said he was being shot up twice a day; later, after he grew weaker, his injections would be reduced to one a day. Lyudmila says she suspects that his warders plan to subject her father to a long hospitalization—and don't want him to become too ill. Yevsyukov always refuses to take pills. A nurse usually asks him to go into a special room where they administer the shots. He refuses. She then demands that he roll over. No reaction. The husky *sanitar* forci-



**A fog of drugs:** An orderly and other inmates force-feed pills to a 'patient'

## For deciding that he wants to leave his country, a Soviet man is considered mentally ill

bly rolls him over—and the nurse sticks Yevsyukov in the buttocks with the needle. Back to the fog.

Yevsyukov seems undaunted. His captors' strategy, as he tells it, is to rob him of his physical and mental energy and at the same time extract from him as much information as possible, so the KGB can later use it against him. His only weapon is silence. "My goal is not to listen to them and not talk to them," he says. Neither he nor his family has ever heard an explanation of Yevsyukov's alleged mental illness. "We never tell relatives anything about the diagnosis," Lyudmila reported the doctor as saying. At least once and as many as three times a day the doctor tries to question Yevsyukov on his background, his problems, his fears. He responds with fierce silence. Lyudmila is likewise uncooperative. "The worst thing that you can do for yourself is not speak to me," she says she was told by the doctor. "You aren't going to answer my questions," Lyudmila told her. "Why should I answer yours?"

Yevsyukov's optimism shows even through the drug-induced fog. "I know everything will eventually turn out all

right," he says. "I can wait." But since he does not fall into any neat category of dissident, his future is less than promising. "The Western embassies tell us, 'You have no invitation to leave. You are not Jewish. You are not a divided family. There is nothing we can do for you,'" says Lyudmila. "They are killing us because we are a unique case. We just want to leave."

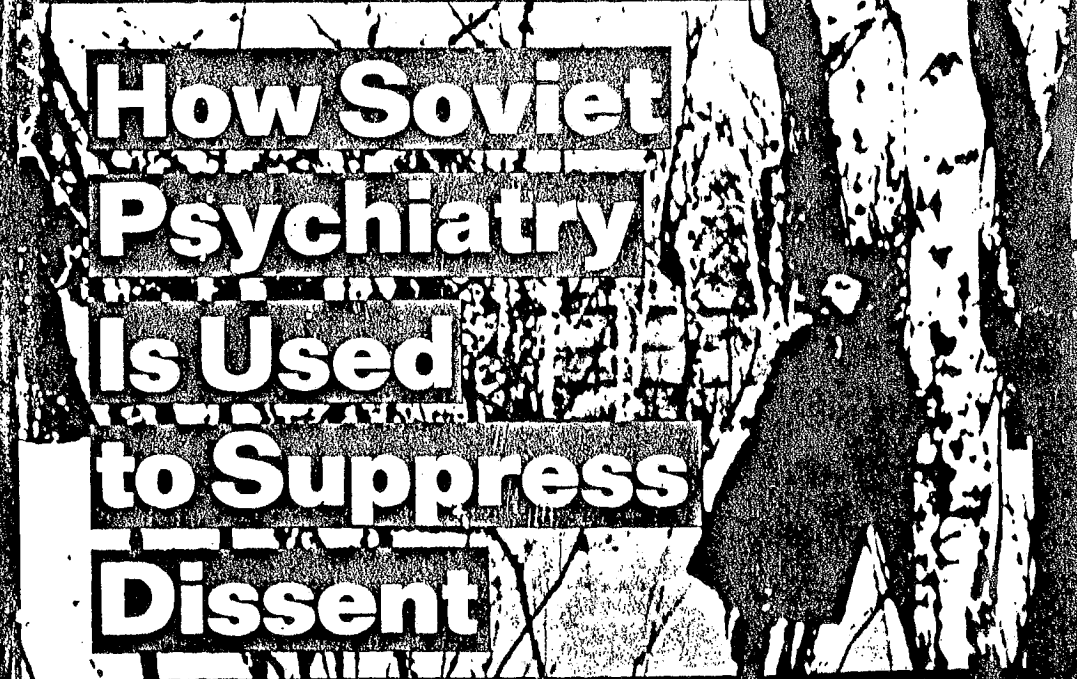
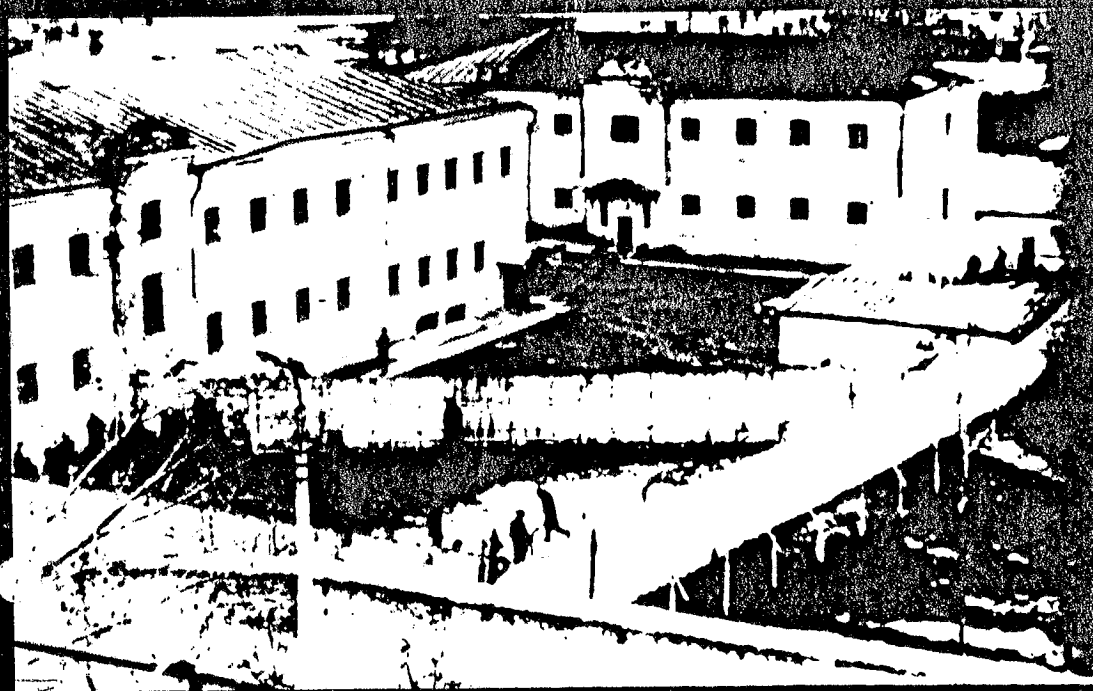
Out in the corridor, nurses chat with each other. Yevsyukov winked a gray-green eye in surreptitious appreciation of his daughter's visit. On the way off the floor, one of the plump guards stopped Lyudmila. "Did he talk to you?" she asked her. "Of course," Lyudmila told her. "Why doesn't he say anything to us? He doesn't say a single word. It's very bad." "Maybe he doesn't want to talk to you," Lyudmila replied. "Well, you ought to tell him to start talking to us." That was an order. It was met with the silence of a devoted and determined daughter.

Outside the building she looked back and saw a tall, sane man behind a barred window on the third floor. It was Yevsyukov waving goodbye with both arms, a drugged but unbroken man.

PSYCHIATRIC

# PSYCHIATRIC TERROR

TERROR



The Oryol special psychiatric prison hospital. © Peter Reddaway, 1974.

SIDNEY BLOCH  
PETER REDDAWAY

SIDNEY BLOCH / PETER REDDAWAY

descendants of the farmers invited to settle on the Volga by Catherine the Great in the eighteenth century. In 1941, when Hitler invaded the USSR, Stalin deported them with great brutality to Siberia and Central Asia. In the 1950s the punitive police régime they had lived under for fifteen years was lifted, and in 1964 they were legally exculpated from Stalin's false charges of treason.

But they were not allowed to return to their homelands on the Volga and in the Ukraine, and a national movement demanding this right rapidly developed. Its insistent lobbying of the authorities met, however, with little or no success. Observing the rise of the Jewish movement, with its militant tactics and goal of emigration, the Germans began in the early 1970s to imitate it. Since they could not regain their Soviet homes, they would seek their ancestral homeland instead. And as their movement grew more militant the authorities began, as with the Jews, to let them out. The numbers climbed from a few hundred a year prior to 1971 to about 6,000 in 1975. To the chagrin of the authorities, the proportion of these people opting to go to East Germany was no more than a few per cent.<sup>15</sup>

One of the movement's leaders in the early 1970s was Vytautas Grigas. In 1971 he was interned in an OPH under criminal commitment. After his release, he applied to leave the Soviet Union but was turned down. With some other leaders he then edited *Re Patria*, a *samizdat* journal on the problems of the Soviet Germans.<sup>16</sup> In January 1974 he took part in a demonstration in Moscow demanding the right to emigrate. He was promptly interned in the Kashchenko OPH for ten weeks and then, soon after his release, allowed with other leaders to emigrate. The KGB hoped to "decapitate" the movement. In West Germany Grigas turned his considerable energy and abilities to organizing a support lobby for the many Germans whom the Soviet authorities would still not let go.

Some other would-be emigrants, apart from a few Jews and Germans, have landed in mental hospitals. Anatoly Chinnov, for example, a Russian biochemist from Leningrad, despaired of ever obtaining permission to leave the country legally. He was arrested when trying to cross the border into Czechoslovakia in 1968. Charged with "betrayal of the motherland" he was interned in the Leningrad and Dnepropetrovsk SPH.

Here the psychiatrists seized on his religious beliefs and repeatedly told him he would not be released until he renounced them. They subjected him to intensive drug treatment, and his health deteriorated sharply. As the *Chronicle* reports, "he developed chronic gastritis, became extremely thin, and half his teeth fell out". Only after six years did release come.

Another Russian, Nikolai Kryuchkov of Moscow, applied in 1974 to emigrate to the USA. Shortly after, during Nixon's visit to Moscow, he was interned in the Kashchenko OPH. His medical report included this entry: "Reason for hospitalization: wish to emigrate from the USSR."

#### 4. Religious Activity

People interned because of their religious faith make up the fourth category, comprising some thirteen per cent of our sample. Gennady Shimanov, whose case we examined in chapter 6, was fortunate by comparison with, for example, Yury Belov. Held in the Sychyovka SPH, Belov was told by his psychiatrists there in 1974 that he suffered from no illness, but nonetheless: "We consider religious convictions to be pathological, so we're treating you." A year later he was still a "patient".

Valery Andreyev, a young Ukrainian worker who turned from a dissolute life to Pentecostalism, was sacked from his job because of his faith. He told a doctor that his religion had saved him becoming depressed about his dismissal. The doctor ruled that in this case he must be ill. Against the protests of his family he was interned in an OPH for two months and forcibly treated with tranquillizing drugs.

The deeply-rooted dissent movement among the Soviet Baptists, which demands a genuine separation of church and state, has also on occasion experienced oppression through psychiatry.<sup>17</sup> Ivan Lazuta, for example, a house painter from Belorussia, was an active member of this movement. In 1970 he was arrested and interned in an OPH in Zhodishki. During an interview with a psychiatrist he asked: "What would happen if I rejected my faith in God and stopped going to prayer meetings? What would you do with me?" The psychiatrist replied: "We'd let you out straight away." Later, after giving Lazuta a course of insulin injections, his doctor asked: "Well, Lazuta, do you still believe in God now?" When his answer was yes, the doctor said: "Okay, now we're going to treat you



and rid you of your fanaticism." Then, in the words of Lazuta's fellow-Baptists, "New treatments were prescribed, and as a result the health of our brother became very much worse. From 11 May his arms began to swell, and all his joints began to ache. Since 18 May our brother has been completely confined to bed by illness and he cannot move without assistance."<sup>18</sup>

Buddhists too have suffered similar experiences. In 1972 four intellectuals were charged in Ulan-Ude, near the Mongolian border, with participation in a Buddhist group. By its activity, the group had allegedly infringed the rights of citizens and prompted them to evade their civic obligations. Partly no doubt because these charges were nonsensical, the four men were ruled not responsible (the group's leader, the eminent scholar of Buddhism, Bidya Dandaron, was tried separately). The four were interned in OPHs, from which, thanks probably to international publicity, they were freed within a year of the trial. The local authorities in Ulan-Ude had evidently wanted to launch a major offensive against independent-minded Buddhists, but had later been instructed by Moscow to back off. This followed the unfavourable publicity surrounding the whole case in the West, and in third-world Buddhist countries which the régime was trying to woo.

##### 5. *Being Inconvenient to Petty Tyrants*

The fifth group, some 5 per cent of the sample, comprises those people who, because of their integrity, are simply inconvenient to some petty tyrant. For example a Moscow doctor, L. A. Petrova, was interned in an OPH for five months in 1972 for several times refusing to excuse from work certain malingerers: they happened to be friends of her boss, the chief doctor of a factory polyclinic. Only when 2,000 workers signed a strongly-worded petition was she released and restored to her position. However, to safeguard themselves from prosecution the hospital doctors had ruled Dr Petrova a schizophrenic and an "invalid of the third category".

On learning this the workers again protested and also wrote to Professor Snezhnevsky asking him to examine her. In the words of one of her defenders, Mrs Gusyakova, "Not only has no one ever noticed in her any deviations from the norm, but on the contrary, she is very responsive, calm and kind, and has no history of mental illness in her family. But Snezhnevsky

examines people only if he is ordered to from above." Attempts were made to prosecute the doctors: "Five times the workers filed complaints at the Volgograd district court in Moscow, yet no trial ever took place." Gusyakova's final comment is pessimistic: "After all, Petrova is not even one of the dissenters, so how much worse a fate can one expect for them!"

Another example in this category is that of Gusyakova herself, a 61-year-old housewife. In November 1973 she went to the Presidium of the Supreme Soviet of the Russian Republic to complain about illegal acts of the district authorities:

As the lower officials give no help to us petitioners I asked to be received by one of [chairman] Yasnov's deputies. Mrs Duritsyna agreed to receive me in room 10, but told me to wait in the corridor. An hour later I was called into the room, and three tough men grabbed me and shoved me through a door into the yard (in room 10 there is such a door). They pushed me into a car and drove me off to Psychiatric Hospital No. 13. . . . For the hospital doctors it was a very awkward situation: I did not need treatment, at home I had a seriously-ill husband, yet the authorities demanded that I be kept in a mad-house, as I was complaining about illegal acts by the district authorities.

It took Mrs Gusyakova a week to get out. During this time no one had cared for her husband. "Fortunately", however, "he survived."<sup>19</sup>

This episode is one of the available examples which confirm the accuracy of the following report in the *Chronicle*:

A number of facts indicate that the reception rooms of the highest official bodies in Moscow either have an ambulance from the psychiatric first-aid service on permanent duty, or are in direct and speedy contact with this service. In many cases people who have come with complaints, usually of a non-political nature, to the reception rooms of the party Central Committee, the Council of Ministers, the Presidium of the Supreme Soviet, the All-Union Central Council of Trade Unions, the KGB and other organizations have not been allowed to put their case, but instead have been forcibly driven off to a Moscow psychiatric hospital, and then, after assessment, to a hospital near their home.<sup>20</sup>

## Behavior

### Censuring The Soviets

*A white list for patients, a black list for their doctors*

Part from Pavlov and his dogs, Soviet psychiatry is perhaps best known for the breakthrough discovery of "sluggish schizophrenia" accompanied by "paranoid delusions of reforming society." This is a mysterious ailment, usually requiring sudden incarceration, that often strikes political dissenters in the U.S.S.R. Since the late '50s, when Khrushchev announced that "there are no political prisoners, only persons of unsound mind," the Soviets have relied on tame psychiatrists to label troublemakers insane.

In recent years, dissidents have reached the West with tales of political victims held incommunicado in psychiatric hospitals, sometimes drugged into a docile stupor, beaten or tied to their beds to wallow in their own excrement. These practices have outraged world opinion, but the World Psychiatric Association timidly avoided the subject at its last meeting in 1971.

Last week, convening in Honolulu, the group mustered its resolution and by a vote of 90 to 88 censured Soviet psychiatry for its political abuses. Perhaps more important, the organization voted, by 121 to 66, to establish a permanent committee to investigate the political manipulation of psychiatry anywhere in the world. Soviet delegates did not secede from the association, as some feared they would, but greeted the censure sourly. Said Moscow Psychiatrist Eduard Babayan: "It is funny to have a majority of two votes after the millions spent on this propaganda."

In fact, the vote was the result of a carefully orchestrated, six-year effort to steer the association away from its see-no-evil stance. *Psychiatric Terror*, a book by British Psychiatrist Sidney Bloch and British Political Scientist Peter Reddaway, which describes more than 200 cases of Soviet psychiatric abuses, was timed to appear just before the meeting. Thirty-four Soviet dissidents, including Nobel Peace Laureate Andrei Sakharov, signed an appeal to the gathering asking for condemnation of Soviet psychiatric abuse. A few of the dissidents showed up at the meeting, including former Leningrad Psychiatrist Marina Voikhanskaya, who marched to the stage to present the meeting with a "white list" of Soviet political victims in mental hospitals and a "black list" of psychiatrists who put them there. Voikhanskaya, who has been living in England since she emigrated in 1975, pleaded with delegates to "help hundreds of psychiatrists in the Soviet Union who



Russian Dissidents Plyushch and Voikhanskaya with Psychiatrist Bloch  
Condemning those who "lack the courage to say no."

have been drawn into crime only because they lack the courage to say no."

The 30-member Soviet delegation boycotted the debate over the censure—"We consider it rigged," said one delegate—but argued outside the halls that the charges were preposterous. After Dissident Mathematician Leonid Plyushch appeared at a press conference and told of his harassment and incarceration as a mental patient, Babayan said "Plyushch is mentally sick. Now that he lives in the West, you will see him and study him in the future. There never was a single case when a healthy person was placed in a mental hospital."

The Soviets complained that the resolution would politically divide the profession—a hint that Western psychiatrists might lose access to Soviet colleagues if the vote went against the U.S.S.R. But the most effective Soviet argument in effect asked: How can you question the diagnosis of mental patients without examining those patients or their records?

Just before the vote, Soviet representatives released to the delegates—but not to the press—the psychiatric records of dissidents in mental hospitals. According to the U.S.'s Howard Rome, current president of the World Psychiatric Association, the unexpected Soviet move helped make the vote close. The anti-Soviet resolution was endorsed by only 19 of the 58 voting societies, but passed by the two-vote margin because of proportional voting weighted according to the number of members each nation has in the world group. Jack Weinberg, president of the American Psychiatric Association, de-

clared himself "saddened" by the need to condemn the Soviet psychiatric abuse but "gratified that we were able to speak up and not be intimidated by any harsh accusations that it is slander."

### Red Hot News

*The stereotype could be true*

According to folk wisdom in many cultures, redheaded people tend to be a bit temperamental. An Israeli researcher believes there may be something to the ancient prejudice. At the Honolulu conference, Psychiatrist Michael Bar, of Israel's Shalvata Psychiatric Center, reported a study showing that redheaded children are three or four times more likely than others to develop "hyperactive syndrome"—whose symptoms include overexcitability, short attention span, quick feelings of frustration and, usually, excessive aggressiveness.

Bar arrived at his conclusion after matching the behavior of 45 redheaded boys and girls between the ages of six and twelve against that of a control group of nonredheaded kids. Though the evidence was far from conclusive, Bar believes the study points to a genetic connection between red hair and hyperactive behavior. "It is possible," he says, "that the assumed national characteristics of certain ethnic groups, like the adventurousness of the Vikings and the temperament of the Irish, are connected to the high frequency of redheads among them."

TIME, SEPTEMBER 22, 1975

WASH POST  
*Shrinking from Dissent*

**PSYCHIATRIC TERROR:** *How Soviet Psychiatry Is Used to Suppress Dissent.* By Sidney Bloch and Peter Reddaway. Basic Books. 510 pp. \$12.95

By ANTHONY STORR

NO ONE WITH ANY interest in human rights can fail to be aware that the Russians label certain political dissidents as insane and confine them in mental hospitals, although there may be no evidence of mental abnormality other than their disagreement with the regime. In 1975, Amnesty International produced an excellent report on "Prisoners of Conscience in the U.S.S.R.: Their Treatment and Conditions." Since then, a great deal more information has become available; and the authors of this new book have done a thorough, well-informed, scrupulous job in collecting this information and presenting it in readable form. Peter Reddaway is an expert on Russia and a lecturer in political science at the London School of Economics. Sidney Bloch is a psychiatrist who has visited Russia and who has many friends among those who are trying to oppose tyranny in that country.

The use of mental hospitals as pri-

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sons for dissidents is peculiarly repugnant, in the same way that the use of medical and psychological techniques for interrogation is repugnant. Hospitals are places for healing the sick, or, in cases where cure is not possible, at least places for providing a humane refuge. In Russia, the misuse of drugs which were originally developed for the treatment of the psychotic to confuse and break down the normal person is one abuse which is now amply documented. There are many others.

This situation has been acknowledged by the World Psychiatric Association, which voted two weeks ago to condemn "The abuse of psychiatry for political purposes... in all countries in which [it occurs]," and in particular deploring "the extensive evidence of the systematic abuse of psychiatry for political purposes in the U.S.S.R." In addition, the WPA established a committee to review allegations of psychiatric abuse by considering personal testimony and engaging in on-site inspections of psychiatric facilities.

Why do the Russians make use of mental hospitals to confine rebels and break their spirit? The Soviet authorities have never been reluctant to imprison or send into exile anyone who opposes the regime, as Solzhenitsyn and others revealed. The answer seems to be that the ordinary criminal code provides too many safeguards for ordinary prisoners. After Stalin's death in 1953, Russian legislators started to reform the criminal law, in the hope of preventing any repetition of the "Great Terror." By 1960, a new criminal code had come into existence which did not recognize any distinction between criminal and political offenses, and which therefore gave the

same kinds of rights of appeal to political offenders as to others. Patients who are deemed insane, however, have far fewer rights than criminals. As the authors point out, in most countries, if mistakes are made in committing patients to mental hospitals, as must occasionally happen, "Judicial review normally enables such mistakes to be rectified. Soviet law, however, fails to provide for such a procedure. The patient is not allowed counsel and has no right of judicial appeal at any point during his commitment."

Most dissidents, moreover, have been committed under the criminal code and sent, not to ordinary mental hospitals, but to the special mental hospitals where most dangerous insane criminals are confined. Western countries also have special hospitals for the criminally insane, like Broadmoor in England. But Russian hospitals of this type are grossly inferior. In fact, they are far worse than prisons: places of horror, where a brutalized staff treat the inmates with cruelty. "For the sane dissenter, the environment in the special mental hospital is especially horrific. He is stripped of every right and left vulnerable and without hope. As an instrument to oppress him the special mental hospital succeeds."

Can anything be done to stop these abuses? Yes, if pressure is prolonged, relentless, and backed by authority, the Russians will release individual dissidents, as we have seen in the cases of such well-known figures as Plyushch. Even more important is the collective condemnation of Soviet abuses by influential psychiatric organizations.

We know that Soviet psychiatrists label sane people as schizophrenic. At first sight, it might be thought that at-

tacking them on this ground would be fruitful, especially as a number of people who have been so diagnosed and who have now been released to the West have been found to be as normal as anyone can be after such an ordeal. However, it has to be remembered that the diagnosis of schizophrenia varies from country to country and that a minority of the dissidents may in fact be psychiatrically abnormal. It may also be the case that some Soviet psychiatrists who are convinced supporters of the regime genuinely believe that anyone disagreeing with it is mentally ill.

It seems to me that the spearhead of our attack should be directed against the Russian legal system. Psychiatric abuses can and do occur even in Western democracies; and I am by no means persuaded that our own laws on either side of the Atlantic give sufficient protection to the committed mental patient. However, both British and American laws do provide some safeguards against wrongful commitment, and a variety of ways in which appeals can be made both by the patient himself and his relatives. The Soviet jurists responsible for the 1960 criminal code are said to be proud of their reforms. Informed criticism by Western legal experts—indicating where Soviet law, as it exists, has been disregarded, and also where it should be modified to afford greater protection to mental patients—should be added to the protests of Western psychiatrists. Bloch and Reddaway have provided us with an invaluable account of the abuses which have occurred, and I hope their book will shock public opinion throughout the world. □

*Smuck*

# **Why Cover Up Torture of Soviet Dissidents?**

*While feigning concern over the psychiatric torture of Soviet dissidents, the American Psychiatric Association covers up the extent of Soviet crimes, honors Soviet psychiatric torturers, and quietly promotes the Soviet propaganda line.*

By CAROL GALLO

"His body writhed, his face was convulsed, he gasped for air and then began to unbutton his clothes with trembling fingers."—*Wife of Leonid Plyushch describes her husband, being treated with psychotropic drugs in a Soviet psychiatric hospital.*

Why would American psychiatrists want to cover up the treatment accorded dissidents at the hands of their colleagues in the USSR? This puzzling question must be confronted, for it appears that the American Psychiatric Association is doing its best to minimize the extent of the horror of USSR psychiatry, while publicly striving to give the impression that it is doing something to help the dissidents being victimized.

The use of psychiatry is one of the favored tools of the Soviet government in enforcing its rule on its citizens. Rather than openly imprisoning anyone it feels is a threat to the system of government, the Soviet Union often prefers its psychiatrists to label an individual "insane." He or she is then put in a mental institution, given mind-bending drugs, and usually remains there until he or she renounces the "insane" critical viewpoint.

## Emigres, Exiled Furnish Details

Knowledge of what goes on in the USSR comes from dissidents themselves—those who have been allowed to emigrate and those who are currently in exile, in prisons, or in psychiatric hospitals. It is through them and such groups as the Center for Appeals for Freedom in New York, which acts as clearing house, that details of the Soviet system are known. Ludmilla Thorne, director of the New York group, has spoken to many dissidents and has compiled first-hand information and makes it available to the press.

"Several different groups are targeted for psychiatric oppression in the Soviet Union," says Thorne. Besides writers, artists and scientists who may voice political dissatisfaction, psychiatry is used to incarcerate persons who profess and practice their religion, organizers of free trade unions, those who want to emigrate, and Soviet nationals who want greater national rights.

Also included in the psychiatric net are the so-called "complainers"—ordinary Soviet citizens who may have a grievance about a civil matter and seek redress through the courts or the Communist party. These people are commonly taken directly to a mental institution where they are treated for

"endless complaints," "slandorous statements," and "nervous exhaustion due to search for justice."

Criminal or civil proceedings may be used. The dissident may be arrested and charged under various articles of the Soviet criminal code for "anti-Soviet agitation and slandering the Soviet system." He is passed on to a psychiatrist who determines he is incompetent to stand trial and sent to a hospital for the criminally insane. There he is placed into a ward with non-political mental

"When given over a period of months or years the drugs cause a permanent neurological disease—tardive dyskinesia—in anywhere from 20 to 50 per cent or more of the individuals treated. Tardive dyskinesia results in disfiguring and sometimes disabling ticks and spasms of the tongue, mouth, face and even the entire body."

Soviet dissident Leonid Plyushch had first-hand experience with these drugs: Plyushch specifically described the initiation of his treatment with

PHOTOS COURTESY AID TO RUSSIAN CHRISTIANS



Above, a "special psychiatric hospital" in the Soviet Union. Drs. Andrei V. Snazhnevsky and Zoya Serebryakova, notes Ms. Gallo, are two documented authors of psychiatric torture, honored by the American Psychiatric Association for their "out-standing contributions to the field of psychiatry."

patients, or put in solitary confinement. He is routinely given psychiatric drugs which can cause hallucinations and with prolonged use cause irreversible damage to the central nervous system.

"The most serious complaints about abuse under the Russian psychiatric system involve 'treatment' with the major tranquilizers," according to Peter Breggin, a psychiatrist practicing in the Washington, D.C., area. Dr. Breggin is the author of *Electroshock: Its Brain-Disabling Effects* (Springer, New York, 1979) and the forthcoming *Chemical Lobotomy: the Brain Disabling Effects of Psychiatric Drugs* (Springer, in press, 1982).

According to Breggin, "Drugs, such as Thorazine, Mellaril, Stelazine, Haldol and Prolixin produce many extremely painful neurological effects, including an excruciating discomfort which makes patients desperate to pace about and to keep their bodies moving. The drugs produce lobotomy-like indifference and apathy, making it impossible for patients to rebel or to resist their captors."

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small doses of haloperidol (U.S. trade name "Haldol"):

"I was prescribed haloperidol in small doses. I became drowsy and apathetic. It became difficult to read books. .... I was horrified to see how I deteriorated intellectually, morally and emotionally from day to day. My interest in political problems quickly disappeared, then my interest in scientific problems, and then my interest in my wife and children. My speech became jerky, abrupt. My memory deteriorated sharply."

The hospitals for the criminally insane, where many of the dissidents are interned and "treated," are run by the Ministry of the Interior (MVD), which also runs the police, the labor camps and the prisons. "The doctors are MVD officers who usually wear the ministry's uniforms with blue epaulets underneath their white coats," says Thorne.

While many dissidents are routed to hospitals through the criminal procedures, he or she may also be civilly committed.

The KGB, often not directly, but through the police, informers, etc., tells the medical establishment they believe the individual is mentally ill. Nothing more is needed. The psychiatrist may



come to the individual's home, his job, or to the scene of an "incident" to examine him. He can be put on a psychiatric register and allowed to return home pending further observation, or committed to a civilian mental institution. These civilian institutions are run by the Ministry of Health.

Although not entirely new to the Soviets, the psychiatric method of handling political dissidents was not very widely used until the ouster of Khrushchev and the advent of detente. Doubtless the increased use is not accidental.

Detente requires the Soviets to portray the picture of "peace lover." Political trials for dissidents and the foreign press coverage these trials would receive would harm that image. It is much better to dispose of the dissidents by calling them "insane" and putting them in mental hospitals, thus handling the problem in a less flamboyant manner. "Why bother with political trials when we have psychiatric clinics?" says Soviet psychiatrist Dr. Georgi Morozov.

In any case, psychiatry handles the dissidents more effectively than political trials, say dissidents Vladimir Bukovsky and Semyon Gluzman. In their stinging indictment of USSR psychiatry, *A Manual on Psychiatry for Dissidents*, the authors point out why:

"It deprives the dissident of what few rights he might have enjoyed as a prisoner, and makes him powerless before the psychiatrists. A mood of resignation to one's fate, a sense of one's powerlessness to resist this method of persecution, has become widespread. It is the reason for recent cases of unexpected 'repentance' and renunciation," they report.

#### **'Mentally Ill' Label Discredits Dissidents**

Another very major advantage of psychiatry is that the label "mentally ill" blemishes the reputation of the dissident, and discredits his ideas and actions. "Even the most impartial man, if he is not personally acquainted with a patient of this sort, always feels a twinge of uncertainty about his mental health, and it provides an opportunity to discredit the ideas and actions of dissidents" say Bukovsky and Gluzman.

Thus the West can have its attention focused on the question of the "mental health" of the dissident rather than the repression of Soviet rule. The propaganda line of "mental illness" provides an ideal chance to create confusion and obscure the true picture.

The Soviets are apparently very conscious of their public image. The success of Andrei Sakharov's hunger strike

is a case in point. Here the Soviets agreed that Sakharov's stepdaughter should be allowed to emigrate to the West rather than face international opprobrium should Sakharov die; they apparently did not want to look ruthless.

Granted the Soviet propaganda effort, one can see the importance of an all-out campaign to publicize the facts and condemn the Soviet psychiatric torture. Bukovsky told American reporters some years ago: "The authorities are very anxious to conceal the Soviet perversion of psychiatry from view... all this can be halted only by unambiguous international condemnation."

#### **The Grigorenko Case: Ten Years of Treatment**

Indeed, many cases have been well publicized in the West. One is the story of Gen. Pyotr Grigorenko, the Russian World War II hero. After the war Grigorenko became active in the human rights movement and started to print and distribute leaflets describing violations. He was arrested in 1964 for anti-Soviet agitation and propaganda.

Shortly afterward he was transferred to the Serbsky Institute of Forensic Psychiatry in Moscow, and diagnosed as mentally ill and in need of involuntary psychiatric treatment. The psychiatric facility where Grigorenko was placed is well known, and many dissidents have been diagnosed there. "The Serbsky is regarded by the human rights movement as nothing more than the executive arm of the KGB," says Ludmilla Thorne.

When Gen. Grigorenko was at the Serbsky, he saw its director arrive at work in the uniform of a KGB colonel. "True, he always comes into the department in his white coat... I have also seen other doctors of this institute in KGB uniform," he said. For the next 10 years Grigorenko was placed in and out of asylums. Finally the Soviets stripped Grigorenko of his USSR citizenship and he has been living in the West since.

The Soviets' psychiatric scientists have even discovered a new mental illness, tailored to describe dissidents' "symptoms." Called "sluggish schizophrenia," the alleged disease was first "discovered" by Andrei V. Snezhnevsky, director of the Institute of Psychiatry, USSR Academy of Medical Sciences. This form of mental disease is subtle, a lifelong condition, and often marked by no external symptoms except "reformist delusions," philosophical concerns, social conscientiousness, and self-absorption.

"Snezhnevsky's theories, which equate dissent and religious belief with psychosis, have been given a near monopoly position in the USSR since around 1960," says Britain's Working Group on the Internment of Dissenters in Mental Hospitals. Snezhnevsky was one of the doctors who examined Leonid Plyushch and diagnosed him as a schizophrenic. "Dr. Snezhnevsky and all the others are only servants of the KGB," says Plyushch.

Knowing from the dissidents the effectiveness of public condemnation one might imagine the American

Psychiatric Association would be the first organization to condemn Snezhnevsky in the strongest possible manner. Knowing his gross violations of medical ethics and human rights, one might imagine the APA would seek to disassociate themselves from him in a very public manner and perhaps even lead a campaign to have him discredited within the international psychiatric community.

Yet even though his reputation was known in the West since the '60s, in 1970 Snezhnevsky was made a "distinguished fellow" of the American Psychiatric Association. This is the Association's highest award, made for "outstanding contributions to the field of psychiatry." Snezhnevsky retains this title today.

"It was only when criticism of Soviet psychiatry in the media could no longer



Doctors Anatoly Koryagin (left) and Semyon Gluzman are now incarcerated in labor camps for having committed the sin of diagnosing some dissidents as being "sane."

be ignored, did the APA and the world psychiatric community even bother to use its favorite ruse for handling criticism—establishing committees, and passing vague resolutions condemning violations of medical ethics. While these pious generalities sound good in the press, psychiatrists carefully avoid embarrassing each other. The real aim of committees is to protect psychiatry's public image," says Breggin.

Illustrative of Breggin's point is a resolution passed by the World Psychiatric Association, an international body composed of national associations of psychiatry. Both the U.S.A. and the USSR are members of this group, which meets periodically to coordinate psychiatric activities internationally. In 1977 WPA's General Assembly condemned the political abuse of psychiatry "in whatever country it occurs," and singled out for special mention the Soviet Union. Yet even this resolution only passed by two votes (90 to 88), which in itself is quite an indictment of psychiatric ethics. In all fairness to the APA, it should be noted it voted on the right side.

But the October 1981 WPA meeting in New York again illustrated how the APA soft-pedals its criticism of the Soviets—all the while giving the opposite impression. Addressing the sub-

ject at a specially called press conference, APA's Dr. Harold Visotsky told representatives of TASS, *Time* magazine and VOA: "We estimate that nearly 200 Soviet citizens were victims of psychiatric persecution from 1971 to 1981."

Visotsky's figures average out at 20 victims a year. He cited as his source a recent study authored by Dr. Lubarsky of Munich, Germany. After reading the study, however, one learns that there are 200 cases where the names, biographies and places of incarceration are known—quite a different statement. More revealing than what Dr. Visotsky said was what he didn't say, for he neglected to tell the press about one of the most startling pieces of data to come to light in recent years.

Just in May 1981, the chief neuropsychiatrist of the Soviet Ministry of Health, Dr. Zoya N. Serebryakova, published a paper prepared for the All-



Union Society of Neurologists and Psychiatrists, which is the Soviet equivalent to the APA. In it, apparently not realizing the import of what she was saying, Serebryakova disclosed that 1.2 per cent of all Soviet mental patients were "complainers," and being given psychiatric treatment for "slandorous statements" and "groundless complaints."

A West German journalist, Claud-Einar Langen of the *Frankfurter Allgemeine Zeitung*, taking Soviet statistics on the number of mental patients from 1974 as his base, extrapolated the number of complainers in mental hospitals. The figure: 7,800 per year!

Visotsky conceded he was fully aware of this data at the time of the press conference. HUMAN EVENTS asked him why he did not mention it. "We deal only in documented cases, we do not like to make loose accusations against the Russians," he said. When it was pointed out that the person who released the data was none other than the Soviet Union's chief neuropsychiatrist, who surely would have first-hand data, Visotsky said: "To bring the subject up was not appropriate for the matter under discussion, which was the 200 cases."

Perhaps what Dr. Visotsky meant was that the data were not appropriate to bring up to the press.

"We did mention the information, privately, to the USSR representative at the WPA conference.... The Soviets are trying to deny she ever said it," said Visotsky. Appearances would indicate the APA is giving the Soviets whatever assistance it can to get the data buried. The question is why would the APA want to talk about an average of 20 abuse cases a year, when, according to the Soviets' own data, the real figures are at least in the thousands?

It should be pointed out that Dr. Serebryakova, who casually mentioned that thousands of Soviet complainers are routinely locked up in asylums each year, in all violation of medical ethics, also enjoys special recognition by the APA, along with Dr. Snezhnevsky. She is a corresponding fellow of the APA. There has been no move to have her name stricken from the APA rostra for her gross violation of human rights and medical ethics since her statement.

Curious also is the APA defense of "ordinary" Soviet psychiatry, contrasting it and the treatment given dissidents. "I served with a State Department Mission to look at Soviet hospitals by Soviet invitation in 1968 and then in 1970," says Visotsky. "Judge Bazelon, and Stanley Yolles, head of the National Institute of Mental Health, were also members of the mission.

"We even saw the Serbsky Institute at that time," Visotsky said, admitting that the incarceration of political prisoners at the Serbsky was already known. "But we were not concerned with the question of political prisoners, nor looking for abuses. We were concerned with the system as a system, and found it was pretty good. As a matter of fact we wrote a report on our findings after the visit, *The First U.S. Mission on Mental Health to the USSR*. The Soviets cite this report in defense of their system, which is a little unfair, of course, as we were not looking for political abuses."

### Science or Socialism?

Other observers disagree with Visotsky's assessment of Soviet psychiatry. "For 10 years I worked with mental patients," says dissident psychiatrist Marina Voikhanskaya, now living in the West. "The conditions in Russian mental hospitals are horrible. There's not enough food, little sanitation, patients are bathed only every 10 days. The stench is overpowering."

Says Alexander Podrabinek, a dissident currently serving a prison sentence brought on in large part by his "anti-Soviet" agitation against psychiatry:

"Soviet psychiatry is backward. The main reason for it is that it has been penetrated by official ideology and materialist dogma. One of the most important and authoritative textbooks in the field of forensic psychiatry in the

(Continued on page 11)

Continued from page 11

USSR states: The problem of responsibility and irresponsibility can achieve its full scientific resolution only on the basis of Marxist-Leninist philosophy. The basic definition of mental illness in Soviet psychiatry is 'absence of social adaptation' which is ideally suited to diagnosing dissenter as mentally ill."

The reason the APA must support the routine psychiatric treatment in the Soviet Union is because it hardly differs from routine treatment in American hospitals, says Dr. Breggin. "The use of Haldol, Stelazine, or Prolixin have the same effects on 'ordinary' patients as they do on the dissidents," he says. "Both American and Soviet psychiatrists rely heavily and often exclusively on the use of major tranquilizers to control and subdue psychiatric inmates. These drugs cause crippling and deterioration of the central nervous system no matter what your political views."

The APA concern with coverage on one hand and apparent condemnation on the other sometimes leads to ridiculous results.

A case in point is the honors given by the APA to two Soviet psychiatrists, Semyon Gluzman and Anatoly Koryagin, who are now in labor camps for diagnosing some dissidents "sane."

Gluzman and Koryagin have received much admiration in the human rights movement, and in an apparent effort to side with "winners"—and deflect public attention from the overt and covert backup being given their

Soviet colleagues—the APA has awarded both men membership in its organization, "for upholding the goals of psychiatry."

Yet Drs. Snezhnevsky and Serebryakova, who are in a very real way responsible for the persecution and suffering of Gluzman and Koryagin, are also awarded for their great contributions to psychiatry. One might ask, what are the goals of psychiatry, that both the torturers and the tortured serve its purpose? "We gave Gluzman and Koryagin APA membership to protect them," said Dr. Visotsky. Protect them from whom? Drs. Snezhnevsky and Serebryakova?

Another "committee" approach to whitewashing psychiatry's dirty linen was initiated by the Americans at the 1977 WPA conference. The APA sponsored the founding of a special international "Committee to Review the Abuse of Psychiatry for Political Purposes." Now each national psychiatric association can send documented cases of political abuse to this WPA committee which in turn passes those cases on the relevant country for "investigation."

Yet USSR psychiatric torture has been documented over and over again by such as Alexander Solzhenitsyn, Andrei Sakharov, Vladimir Bukovsky, Leonid Plyushch, Victor Fainberg, and Gen. Pyotr Grigorenko, and both U.S. Senate and House hearings. How much more documentation do these

careful scientists need?

The Soviets themselves don't need it. They committed the crimes in the first place, and have, of course, first-hand knowledge of what occurred. Nor would they be inclined to "investigate" the matter upon the urging of the WPA, one would suppose.

So, again, the real product of this committee is ceremonial paper shuffling. Dr. Visotsky's comments bear this out. Despite the fact the WPA committee has been in existence since 1977, and the APA has passed eight "reasonably" well-documented cases of "alleged" abuses, no "substantive" response has ever been received from the Soviets. "They say they don't recognize the WPA committee," says Visotsky.

Are the American psychiatrists going to put aside the paper shuffling and deal with the real issue? Are they going

to call for the ouster of the Soviets from the WPA for their crimes? The answer is "No."

"We're not accusing the Russians of misuse," says Visotsky. "All we really want is a response to our inquiries, a response to the cases we sent them. What we would really like is to see the medical records."

Why does the APA want to look at the psychiatric records the Soviets have cooked up against the dissidents? Of what relevance are they to the question at hand, which is the Soviet psychiatric atrocities?

Could it be perhaps the APA might find some of the dissidents "mentally ill," too? Like the Soviets that Bukovsky and Gluzman warned us about in their *Manual*, the Americans, by even suggesting the relevance of the psychiatric records, are covertly raising questions about the dissidents' credibility.

(Continued on next page)

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- what psychiatry may be like in the future and what we must do to limit its power.

# The Powers of Psychiatry

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# The Powers of Psychiatry

Jonas  
Robitscher, J.D., M.D.

## How Psychiatrists Usurp Authority: Abortion and the Draft

THE EFFECT of psychiatric determinations during the last two hundred years, first in court and later also out of court, has been generally to liberalize and "humanize" social attitudes and policy. The earliest testifying psychiatrists enlarged the definition of criminal irresponsibility and made more people not responsible for actions that otherwise would have been considered criminal. Psychiatrists went on to find excuses for abrogating contracts. They developed theories by which deserting soldiers would be held sick rather than traitorous. They developed theories by which scared and frightened people could get financial damages for torts, although formerly a physical cause would have been required to recover damages. They liberalized the interpretation of workmen's compensation laws so more conditions could be included. These changes were accomplished by psychiatrists who presented "scientific" evidence to enlarge the definition of "sickness." Psychiatrists were relied on outside the courtroom to give opinions that would influence the decisions of individual administrators and for testimony in administrative hearings.

When psychiatrists found that they had this much influence, they sometimes began to give opinions that were designed to achieve a desired social end rather than to express scientific fact finding. Thomas Szasz has said that there has been a consistent bootlegging of humanistic values into the social scene through reliance on psychiatry. If capital punishment seemed like too extreme a penalty, some psychiatrists could be found to testify that a defendant had been suffering from temporary insanity, and on this basis the penalty could be circumvented. Sometimes the testifying psychiatrist would be more influenced by sympathy for the defendant or his distaste for the law

## How Psychiatrists Usurp Authority

under which the defendant might be executed than by psychiatric indications that there had truly been insanity. Crimes committed by juveniles are often held to be evidences of psychological disequilibrium and so to be distinguished from similar crimes that are to be punished when committed by other juveniles. Sometimes the availability of a psychiatrist makes all the difference, and sometimes the psychiatrist is not concerned with mental state but with some other factor—perhaps his belief that detention would not be in the best interest of the juvenile, or perhaps a belief that marijuana should be decriminalized and that therefore an offender should not be penalized.

Two instances in recent years, psychiatric assistance for women in securing abortions and psychiatric help in obtaining deferments for draft-eligible men, represent deviation from scientific standards by psychiatrists so that social goals could be achieved—a more liberal abortion policy and a decreased support for an unpopular war. The determinations made by psychiatrists were not medical, they were political, but they were not challenged because the social aims were so generally acceptable. The psychiatrists themselves justified their deviation from medical standards because it was in the service of a "higher morality."

Abortion, before its liberalization by the Supreme Court's decision, and draft deferment during the Vietnam War represented moral controversies. In both cases psychiatry took its stand on the liberal side of the issues and used its influence first to help people evade the law then in force and then to promote a change in the law. Abortion was the first of these issues to surface. Prior to 1967, most states had highly restrictive abortion laws. These laws sought to protect the life of the fetus, and they prohibited women from patronizing nonmedical abortionists or aborting themselves. Abortions were required to be done by physicians and only on the grounds specified in the statutes, usually to save the life or preserve the health of the mother. A few states prohibited abortion entirely, but in prosecutions for criminal abortion, courts even in these states recognized a clear threat to the life of the mother as a valid defense. In 1967, California, Colorado, and North Carolina liberalized their laws, giving additional grounds for certifying an abortion, and in succeeding years a number of other states followed. In 1973 the Supreme Court promulgated a national policy of unrestricted abortion for the first six months of pregnancy.<sup>1</sup>

Until the late 1940s, internists and obstetrician-gynecologists could easily certify that women with rheumatic heart disease, kidney disease, and some other illnesses needed an abortion to save or preserve



their lives. When women had no medical grounds for abortion, a psychiatrist could certify that the pregnancy had made the woman so depressed that she had become a suicidal risk, and the abortion would thus "save" or "preserve" her life.

Many women had no medical grounds for abortion, and even for women with major medical problems, the introduction of antibiotics, kidney dialysis, and improved care of heart patients made it increasingly difficult to justify an abortion on strictly medical grounds. Psychiatric indications then became the main reasons for abortion.

Psychiatrists certified abortions for women who were not psychiatrically ill and did not meet the psychiatric criteria for abortion. They did this not only out of sympathy for women who wanted an abortion and had no other way to procure one legally, but also as a protest against an abortion policy they considered too restrictive. The certifications were made after only of a brief interview, on the basis of which mental illness severe enough to threaten life was imputed to women who did not have such illness. The women were pleased to be declared mentally ill. They understood that this labeling was based on convenience and that they were not considered really ill. Before the psychiatric evaluation they were often coached by their referring doctors to describe suicidal preoccupations. The obstetricians and gynecologists who referred the patients to the psychiatrists for certification were happy to have psychiatrists take responsibility for the abortion and to have the way paved for it. Psychiatrists who saw the abortion laws as too restrictive were pleased to provide this service in the interest of a liberalized abortion policy and to be able to make a political gesture for which they also received pay. Deliberate mislabeling on a wide scale was continued over a period of years, until a change in the legal system no longer made health a factor in securing abortions.

Most of the data available on psychiatric need for abortion was imprecise, but it indicated that even a woman seriously threatening suicide if she had to carry a baby to term almost never acted out this threat. Daniel Callahan, the philosopher-medical ethicist, stated that though a number of psychiatrists stressed the possibility of suicide on the basis of attempts or threats, the evidence of the actual incidence of suicide was in fact very rare, even in women who were denied abortion after threatening suicide. In 1970 Callahan wrote, "So far as I can judge from the literature, there are no data to support a view that suicide for refused abortion, or as the result of pregnancy, is significant anywhere."<sup>2</sup> The likelihood of a severe neurosis or of a psychosis if the pregnancy was carried to term was also remote.

In addition to traditional psychiatric factors, psychiatrists took into

consideration socioeconomic factors that had not before been considered medical—the number of previous children, the wish of the patient regarding this pregnancy, whether there were other family problems, and the family's financial situation. When all these are included as health reasons for an abortion, it becomes easy for a psychiatrist who favored abortion to say that it would preserve life, and even easier for him to say that it would preserve health (in the states that broadened their criteria to include this).

Callahan, who favored a liberalized abortion policy, thought it was appropriate for psychiatrists to take all these nonpsychiatric factors into consideration in view of a "general trend in medicine to see health in the broadest possible terms." The concern of the psychiatrist, Callahan said, was to help people function in their social and cultural environment. "The judgment, for instance, whether a person should be committed to a mental institution, whether he should be given certain drugs, whether he should be given intensive or relatively relaxed treatment, will be very much determined by a psychiatrist's consideration of the broadest context of a person's life."<sup>3</sup> This is a position that gives the widest discretion to psychiatrists, since everything becomes a factor to be included in a psychiatric determination.

Most psychiatrists who certified abortion were not basing their decisions on a belief that they were practicing a new kind of holistic medicine. They were giving false diagnoses and prognoses out of sympathy for the plight of women who otherwise might have been forced into an illegal abortion.

Fuller Torrey, an antipsychiatric psychiatrist, believes that the widening definition of psychiatric illness will lead inexorably to "psychiatric fascism," where psychiatrists, justified by reliance on the medical model, would be given control over almost every phase of human life. He cites the abortion determinations as an example of "a social problem" that "became psychiatrized." The decision concerning abortion was left to psychiatrists, he says, and "we in turn justified our decision by value statements about the mental 'health' of the woman . . . It was all a sham, a shift of responsibility from society to psychiatrists." Torrey, like many other psychiatrists, both pro- and antiabortion, was glad when abortion reform took the decision out of the hands of the psychiatrists and made the psychiatrist honest once again, or at least took him out of this kind of dishonest psychiatric practice.<sup>4</sup>

Many psychiatrists did not go along with this deviation from the psychiatric tradition of a scientific and factual basis for diagnoses. Those who opposed abortion on moral grounds or because they did not want psychiatry to take on the responsibility for making such obvi-

ously nonmedical decisions did not readily certify abortion. If they did it at all, it was for the rare patient with schizophrenia, manic-depressive psychosis, or some other serious psychiatric illness that might be aggravated by the continuation of the pregnancy. But in every community the proabortion psychiatrists quickly became known, and the medical community had a sure source of certification of abortions for their patients. The typical woman who was certified for abortion by proabortion psychiatrists had never seen a psychiatrist before she consulted one to secure the abortion, and once it was granted she had no need to see one again. In the period before liberalized abortion statutes and policy, the number of legal abortions certified on medical and mental grounds rose to twenty thousand to twenty-five thousand yearly.

During the same period, there were an estimated two hundred thousand to 1 million illegal abortions done yearly in the United States, some of which resulted in infection and death. The fact that affluent patients could easily find psychiatrists to certify their abortions but ward and charity patients were usually not granted them became one of the main arguments for doing away with abortion restrictions entirely. (This was a strange social and economic phenomenon explainable only in part by the fact that teaching hospitals that took care of poorer patients had higher standards and were subject to more scrutiny than other hospitals.)

Psychiatrists promoted a change of attitude by certifying abortions and by preaching a more relaxed point of view. Some psychoanalysts saw it as a crucial decision that carried the possibility of great unconscious guilt, but many psychiatrists began to argue that the conflict involved in having an abortion had been overstated in the older psychiatric literature. These were influential factors leading to legislative and judicial action to liberalize and finally to end restrictions on abortion.

Because psychiatry is largely practiced outside public scrutiny, it had been possible for psychiatrists to promulgate their own policies. In this they were very much in the position of a district attorney who has the power to decide whether or not he considers an offense serious enough to prosecute. But the district attorney's discretionary power is not ostensibly decided on scientific grounds, not made outside public awareness, and does not usurp authority that properly belongs elsewhere in society. The usurpation of authority here was at the expense of legislatures that had devised abortion policies that psychiatrists then circumvented.

The liberalization of abortion laws was paralleled by a liberalization

of psychiatric thought. In 1967 only 23 percent of responding members of the American Psychiatric Association favored abortion on demand; two years later an amazing change had taken place and 72 percent of 2041 psychiatrists surveyed approved of abortion on request.<sup>5</sup>

Psychiatry can be used not only to procure abortions but to shape attitudes about abortion. When Hawaiian operating-room nurses working under a liberalized state law found themselves nauseated, depressed, and made anxious by their participation in abortions, psychiatrists called these reactions neurotic—although that was a value-laden judgment—and required that the nurses go into group therapy, in which they could come to accept the fact that their reactions were inappropriate—especially so, because, in the words of one of the psychiatrists called in to deal with the problem, “what is aborted is a protoplasmic mass” and not a real live individual.<sup>6</sup>

When a decrease in morale on the wards where abortions were performed at the hospital of the University of Pennsylvania led to an increase in nursing turnover, two psychiatrists helped form groups so that nurses could “come to terms with their feelings.” The nurses felt that the “dirty work” of saline-induced abortions was left to them, because the doctors injected the amniotic sac with saline and left the rest of the process to the nurses. Sometimes the aborted fetus had a heartbeat, and the nurses felt a conflict between their traditional role and that of assistants at abortion. They resented young unmarried mothers who were forcing them to take responsibility for “cleaning up their mess.” Group therapy ventilation turned out not to be a help—in fact, the head nurse left her job after participating in nine sessions. The psychiatrists changed their tactics and got medical personnel who had a positive attitude toward the abortion procedure involved in the groups. They also made policy recommendations to improve the abortion service. They recommended that the procedure should be done earlier so that the fetus is less recognizable as a human being, and that older female nurses and male nurses be used on the abortion wards, since nurses in their twenties, who were often unmarried and childless, were too sensitive to the issues involved in abortion.<sup>7</sup>

Discomfort in the role of assisting at abortion, which would have been seen a decade earlier as a normal emotional reaction, had been redefined as immature and neurotic. The interest of the smooth functioning of the abortion ward had taken precedence over feelings, which, if they had not impeded hospital routine, would have been “worked with,” but now had to be stamped out. By 1979 medical feeling on abortion had become so fixed in the proabortion position

that medical-school graduates who opposed abortion were being denied obstetrics-gynecology residencies for their views, and applicants to some medical schools were quizzed on abortion views and were denied admission on the basis of an antiabortion position.<sup>8</sup>

For a period of three years, from the Supreme Court's abortion decision in 1973 until Congress passed the Hyde Amendment on the Health, Education, and Welfare Appropriation Bill in 1976,<sup>9</sup> psychiatrists had no need to be involved with abortion. The Hyde Amendment brought psychiatry back into the picture again by prohibiting federal funds for Medicaid abortions "except where the life of the mother would be endangered if the fetus were carried to term." The Supreme Court later ruled that when the life of the mother is not endangered, the state is not required to pay for abortion.<sup>10</sup> The "1978 Hyde Amendment"<sup>11</sup> superseded and somewhat liberalized the "1977 Hyde Amendment" and allowed federal funding for Medicaid abortion "where the life of the mother would be endangered if the fetus were carried to term" for victims of rape or incest, and when severe and long-lasting physical health damage would result from carrying the pregnancy to term. As a result of the Hyde Amendments, the psychiatrist was again in a position of authority, able to certify abortion on the ground that suicide threatened. Their certification now had a different impact: The abortion was legal without certification, but only the psychiatrist's certification could qualify it for federal funding. Now, however, so much publicity focused on abortion certification that psychiatrists were more reluctant to bend the law as they previously had.

\* \* \*

During the Vietnam War there was an equally glaring example of psychiatric mislabeling of people as sick in order to enable them to circumvent the force of a law that they found onerous, and this involved exemption from the draft. Once again, as in the abortion process, the psychiatrist used his labeling power to confer an excuse and thus assumed authority that had never been granted to him. Like abortion certification, psychiatric deferment of draft-eligible men had a racist connotation. In both cases, minority-group members and the poor were not given the advantage of the psychiatric excuse. Sophisticated and affluent men, many of them college-educated, learned how easy it was to find a psychiatrist who would say they were neurotic and thus allow them to be deferred. Their places in draft quotas would be filled by the less sophisticated, less affluent, and less well educated, who were not as adept at circumventing the system or had less desire to be relieved of their legal obligation.

During the Vietnam War the law required every man subject to the draft to register at eighteen and the policy was to draft men nineteen and over. Beginning in 1970, a lottery system was instituted in which every nineteen-year-old male was assigned a random number based on his birthdate. The lottery system represented the decision by the government not to continue to try for a fair draft system. Henceforth, instead of equality of sacrifice, the emphasis would be on luck or fate. Under this system, a man with no deferment who was not called during his nineteenth year or a deferred man who was not called during the first year in which he was subject to the draft was home free, without further obligation.

The system produced a huge pool of draft registrants that funneled down to comparatively few drafted men. Out of a manpower pool of 27 million men there were almost 9 million enlistees and 2 million draftees. There were 2,150,000 who went to Vietnam and 46,000 who died from enemy action (of a total of 108,000 deaths). Fewer than 1 percent of all draft-age men were needed for combat duty in Vietnam at any one time.<sup>12</sup> The element of luck involved in the draft and the inequity of sacrifice led to widespread desire to escape the draft. Sometimes those who did not use every means to avoid being drafted, no matter how contrived, were seen as stupid or "square." More than 15 million men avoided the draft either because they were lucky in the lottery (over 4 million of these) or because they were disqualified, deferred until the risk of being drafted was over, or exempted. The variety of reasons for deferments and exemptions was broad: conscientious objection, student status, elected official, hardship, marriage, fatherhood, status as a sole surviving son, and occupational status as minister, teacher, engineer, or farmer. But the way that most men avoided the draft was to be exempted because of a physical, mental, psychiatric, or moral disqualification. More than 5 million men avoided it in this way, by failing either their preinduction or induction physical examination. Of these, there were 255,000 exemptions for psychiatric defect and 1,360,000 for mental defect.<sup>13</sup>

The preinduction physical examinations were done at seventy-four Armed Forces Entrance and Examination Stations throughout the country. These stations augmented their medical staffs by contracting with local doctors. The psychiatric consultants, who received sixty dollars a day, were usually traditionalists who felt assisting the military to fulfill its manpower requirements was also a fulfillment of their own patriotic duty, and they favored passing, rather than failing, inductees. But as conformist physicians, they placed a great deal of reliance on

the recommendations of their fellow doctors if the inductee carried with him a medical certificate stating he should not serve.

There was another and more valid reason for the consulting psychiatrists to rely on the physician certificate that the inductee presented: A man labeled by an outside psychiatrist as neurotic and unfit for service, if drafted and later psychiatrically disabled, would be a continuing charge on the government for the remainder of his life. Less severe disability could cause inadequate performance in the service, leading to less-than-honorable discharges, dishonorable discharges, possibly court martials, assignments to rehabilitation programs, and other expensive and inefficient alternatives to satisfactory service. Consulting psychiatrists tended to disbelieve the stories of neurosis and psychiatric disability of registrants who did not have a physician certificate and to believe without reservation the word of a fellow psychiatrist that disability was present.

The knowledgeable registrant had a great advantage in attempting to manipulate the system. If he wanted to join the service, he could suppress evidence of a psychiatric disorder, and many men, particularly those from blue-collar backgrounds, where failing to serve was considered unmanly, did suppress evidence of psychiatric disorder. On the other hand, if the registrant wanted to be exempted from service, he could present a physician's certificate, even though the history of psychiatric problems may have been exaggerated or fabricated. The registrant had months to prepare his story and build up a history of psychiatric illness; the examination station consultant had only a brief interview.

Most psychiatrists did not readily certify draft-eligible men as too mentally ill to be drafted, but some who were opposed to the Vietnam War and wanted to do all they could to hamper its prosecution took action by letting draft-counseling agencies and antiwar organizations know that they would cooperate with anyone who wanted to evade the draft through a psychiatric basis for exemption. (The only problem with this gesture of opposition is that the place of the psychiatrically deferred man would be taken by someone else who did not want to take advantage of a psychiatric exemption or was not knowledgeable enough to find the path to one, and so the policy of easy psychiatric deferment did not save lives—it only meant that another person would assume the risk or hardship.)

The Selective Service System invited efforts to beat the system by listing so many grounds for exemption that a knowing inductee had a wide choice of which route he wanted to follow—being a conscientious objector, exhibiting an obscene tattoo, being in the process of

having orthodontic braces fitted, having a food or bee sting allergy, having asthma, severe ingrown toenail, hemorrhoids, itchy scalp, insomnia, or hay fever, and being ugly or underweight were only a few. If none of these applied, there was always the psychiatric excuse. The Selective Service guidelines on "Psychoses, Psychoneuroses, and Personality Disorders" were vague, and broad enough to cover any enterprising registrants who wished to "go the psychiatric route." Besides a history of serious psychiatric illness, they included history of a psychoneurotic behavior that impaired school or work efficiency; a history of a brief psychoneurotic reaction within the preceding twelve months sufficiently severe to require medical attention or some brief absence from work or school; character and behavior disorders evidencing an impaired characterological capacity to adapt to the military service; overt homosexuality; other deviant sexual practices such as voyeurism, exhibitionism, and transvestism; alcohol or drug addiction; characterological disorders characterized by immaturity, instability, and personal inadequacy and dependency; and other symptomatic immaturity reactions such as bed-wetting, stammering, or stuttering. One Pennsylvania doctor said, "There's no young man so well that we can't find something to disqualify him from serving."<sup>14</sup> A draft counselor said, "No one is so healthy that he cannot be an army reject."<sup>15</sup> A researcher looking into draft exemptions wrote: "Almost anyone, at one time or another, could qualify for exemption under at least one of these."<sup>16</sup>

As public opinion against the Vietnam War strengthened, some doctors began to act as if they were performing a moral act by finding ways for men to evade the draft. The Medical Committee on Human Rights coached doctors in writing convincing letters to examination station doctors. One recommended method was to concentrate not on the inequity of army service for the registrant but the disadvantage to the service of drafting the registrant.<sup>17</sup>

Some doctors with antiwar sympathies rationalized the exaggeration of symptoms by peculiar logic. The registrant seeking help in evading the draft is a patient, they said (although most people would not see this as a doctor-patient relationship), and the problem for which he seeks medical help is not the allergy, asthma, or insomnia, which may only be marginally present, but the threat of being drafted, which is imminent and real; therefore the function of the doctor is to help the patient in every way he can to spare him the threat of the draft. An Oregon doctor, writing to the *New England Journal of Medicine*, put this position in words that are as unequivocal as they are logically and ethically dubious. Traditional medical

ethics, he said, clearly set forth "the obligation of the physician to help the patient in front of him in any legal way he can."<sup>18</sup> These doctors represented a minority of medical opinion. Most doctors would have seen their role differently. But draft-resisting patients were drawn to draft-opposing doctors.

Draft board policy gave doctors extraordinary power. If a registrant presented a doctor's letter but the examining station doctor thought he was malingering, he would often still be rejected on the ground that a malingerer was not a good psychological risk for the armed services. Not all draft boards were as acquiescent, and the counseling of registrants eventually developed into a fine art that included the evaluation of which draft boards accepted what kinds of reasons for deferment.

Examination Station psychiatrists were suspicious of claims of homosexuality, since this was one of the popular choices for men seeking exemption, and they were often disbelieving, even when the claim was true. Many homosexuals were drafted. But claims for exemption on other psychiatric grounds, supported by a doctor's letter, tended to be believed. One army authority on medical standards said, "Even when we suspect malingering, it is impossible to prove it. The standing rule is to believe the letter brought by the examinee. If a doctor says the man has a debilitating illness, then we have no choice but to say he's out." At least one examining station gave everyone with a letter from a doctor an exemption,<sup>19</sup> and many others rarely questioned a letter. Most registrants preferred a physical rather than a psychiatric reason for being rejected, and the psychiatric exemptions accounted for only about 7 percent of those based on physical and psychiatric defect, but as antiwar sentiment mounted, the psychiatric exemptions increased in popularity, particularly when psychiatrists learned their recommendations were being so readily accepted.

In addition to the attempts by some psychiatrists to help men who had not been patients to avoid the draft, many psychiatrists wrote letters documenting the need for exemption for their therapy patients. The main motive for a patient's entering therapy may have been the anxiety caused by the imminence of the draft. The therapy may have been a legitimate effort to deal with the threats of separation and death caused by the draft or it may possibly have been a less legitimate effort to build up a history of treatment for a psychoneurosis in order to justify deferment. We do not know how frequently doctors wrote letters for patients in treatment—legal psychiatry operates in an atmosphere of low visibility, and we lack statistics and hard data on most subjects—but we do know that many psychiatrists wrote draft

letters for a few of their patients, and some specialists in the treatment of adolescents wrote letters for many of their patients. A few analysts, conscious of the transference meaning of helping a patient remain in therapy, asked their patients to see another psychiatrist to evaluate them and write the letters. In this way they hoped to keep the transference from being "contaminated." (The suggestion to see another psychiatrist was itself contaminating, but this seemed to some classical analysts the lesser contamination.)

Like the women certified for abortion, men evaluated for draft exemption who had not been in psychiatric treatment usually did not consider themselves sick. The recommendation would sometimes be made for continuing therapy after the exemption had been secured, but both parties in this transaction knew that it would probably not be followed. Fear of induction was the "disease," and the exemption was the "cure."

One New York psychiatrist, according to *Time*, wrote as many as seventy-five letters a week, charging up to \$250 for each letter, to certify men as psychiatrically unfit. Eventually examination station doctors learned to recognize her bias and to ignore her recommendations.<sup>20</sup> (A psychiatrist who could see seventy-five registrants and write letters for all of them at \$250 per letter could earn \$18,750 for a week's work.) Some psychiatrists did not accept fees for their evaluations, seeing this activity as part of their antiwar effort.

Antiwar psychiatrists felt there was no need to be objective, because the war was unjust. Peter Roemer wrote in a letter to the *American Journal of Psychiatry* that he had seen over 100 men who were looking for a way out of the draft, and he had not felt that in writing any of the letters for these men that he had any need to profess objectivity about his antiwar and antiestablishment value system. Criticizing an article that had discussed the position of the doctor writing letters for draft exemption, he said, "The authors would like to maintain that it is possible for a psychiatrist to be objective. I think this is naive . . . I do not think it is possible for one man to confront another's pressing need (in this case a letter) and not have his perceptions of that individual distorted by his feelings; certainly, his feeling about satisfying that need would distort his perceptions."<sup>21</sup> Peter Bourne, writing free draft exemption letters in Atlanta, was chagrined to find that some of the registrants he helped, instead of being grateful, "acted as though all doctors had a moral obligation to help them dodge the draft for nothing."<sup>22</sup>

Very few writers of dubious letters were challenged. When several were reported to the United States surgeon general, he was not able



to decide whether there was any authority to act against them.<sup>23</sup> It would have been difficult for the Justice Department to prosecute physicians successfully for impeding the draft, since "clinical judgment" provides a wide scope for the decision maker, and so the doctor could always plead this was his honest clinical opinion. Local medical societies could have brought disciplinary actions such as suspension from the society, but that would not have interfered with the ability to continue to practice, and in any case there is no report that any disciplinary action was brought against any physicians for fraudulent documentation to help evade the draft.

Influenced by the growing activism of antiwar physicians, the rejection rate for the draft went from 29.9 percent in 1968<sup>24</sup> to 36 percent in 1969<sup>25</sup> to 46 percent by July 1970.<sup>26</sup> In Philadelphia it rose to almost 60 percent. As draft boards became less sympathetic to conscientious objector claims and as teacher and graduate student deferments were phased out, the number of medical, and particularly psychiatric, claims for deferment increased. Commented psychiatrist Benjamin Pasamanick in 1974, "During the Vietnam conflict of the last ten years a unique finding in U.S. military history was observed. For the first time rates of rejection from the armed forces were higher for white persons than for black persons. It was apparent that the white middle- and upper-class men (rejected largely, as usual, on psychiatric grounds) were able to pay for civilian psychiatric opinions that, oddly enough, coincided with the judgments of the psychiatrists on the draft boards. The black men, on the other hand, either because they were unable to pay for such independent psychiatric opinions or because they were largely unemployed and found military service the only mode of life, also had their judgments of their own psychiatric fitness coincide highly with those of the draft boards."<sup>27</sup>

Leslie Fiedler wrote that he had "never known a single family that had lost a son in Vietnam, or indeed, one with a son wounded, missing in action, or held prisoner of war" and that, talking to friends, he found they "all say the same."<sup>28</sup> In 1965, blacks accounted for 24 percent of all combat deaths.<sup>29</sup>

A student who was at Harvard during the time he was subject to the draft has written about his efforts to avoid being drafted. James Fallows—later President Carter's chief speech writer—wanted to secure his deferment on the grounds of being underweight. He was six feet one inch tall, and he hoped through rigid dieting to bring his weight down to less than 120 pounds. He had been advised to do this by Harvard medical students who were engaged in helping college students beat the draft. They had also advised that he try fainting spells.

but he had decided that he could not fake these successfully. He was disappointed when he was put on the scales to find he weighed 122, and he persuaded the orderly to write down 120 pounds instead. Then he was sent to a final meeting with the "fatherly physician" who ruled on marginal cases. He wrote:

I stood there in socks and underwear, arms wrapped around me in the chilly building. I knew as I looked at the doctor's face that he understood exactly what I was doing.

"Have you ever contemplated suicide?" he asked after he finished looking over my chart. My eyes darted up to his. "Oh, suicide—yes, I've been feeling very unstable and unreliable recently." He looked at me staring until I returned my eyes to the ground. He wrote "unqualified" on my folder, turned on his heel, and left. I was overcome by a wave of relief, which for the first time revealed to me how great my terror had been, and by the beginning of the sense of shame that remains with me to this day.

Fallows wrote how, while the men from Harvard were deliberately failing their color-blindness tests, buses from the Chelsea district draft board drove up. In contrast to the Harvard contingent, these were "thick, dark-haired young men, the white proles of Boston."

Most of them were younger than us, since they had just left high school, and it had clearly never occurred to them that there might be a way around the draft. They walked through the examination lines like so many cattle off to slaughter. I tried to avoid noticing, but the results were inescapable. While perhaps four out of five of my friends from Harvard were being deferred, just the opposite was happening to the Chelsea boys.

Fallows described how he and his friends returned to Cambridge in a high-spirited mood, but with something close to the surface that no one wanted to mention—"We knew now who would be killed . . ."<sup>30</sup>

In the sparse psychiatric literature dealing with the role of the psychiatrist certifying for draft exemption, the authors of one study indicated that single-interview psychiatric evaluations for draft purposes were so cursory that they tended to discredit psychiatry.<sup>31</sup> But the psychiatrist-authors of another study stated that a single interview lasting forty-five to sixty minutes was enough for the psychiatric determination in 93 percent (136 out of 147) of the cases they reviewed. (They recommended that all but five of the men they saw receive deferments; they said that "civilian psychiatrists have a responsibility to maintain their patients' health, which is often incompatible with military service.")<sup>32</sup> Other psychiatrists did not spend even forty-five minutes with the men they were evaluating, or if they did spend that time on the evaluation, they did this for legal reasons, to document the

reliability of their certification, not to elicit a more accurate psychiatric story. One student tells of obtaining a letter from an antiwar psychiatrist in New York City in 1970. He visited the psychiatrist three times to have the diagnosis made, and the recommendation look professionally and conscientiously conducted, but in fact the total time spent in talking with the psychiatrist was less than fifteen minutes.<sup>33</sup>

With the connivance of a poorly conceived governmental policy and a legal system that would allow appeals to drag through the courts for so many years that the issue had lost its relevancy, physicians and psychiatrists had helped middle-class and educated men escape from the draft. What were the long-term social and political effects of their overzealousness? Fallows has suggested that it prolonged the war, that it permitted the opposition to Vietnam involvement to operate with less urgency than it would have if the burden of service had been more equally distributed. He says, "The more we guaranteed we would end up neither in uniform nor behind bars, the more we made sure that *our* class of people would be spared the real cost of the war. The children of the bright, good parents were spared the more immediate sort of suffering that our inferiors were undergoing. And because of that, when our parents were opposed to the war, they were opposed in a bloodless, theoretical fashion, as they might be opposed to political corruption or racism in South Africa."<sup>34</sup> Dr. Howard Waitzkin, who participated for two years in assisting draft resisters to secure deferments, describes the social effect as being consistent with the wishes of the armed forces, which is an explanation of why it was allowed to continue and flourish.

The sick role is a convenient mechanism of social control for institutions like the Selective Service System. The military offers the sick role as a controllable mode of deviance for those who are unwilling to co-operate fully with the system but who will not—once granted medical exemption—actively work to overthrow the system . . . From this perspective, the sick role appears to support the institutional status quo. Physicians, often eager to satisfy the needs of individual patients, tend to expand their certification of the sick role in such institutional settings as the military draft. This apparently beneficent act on the physicians' part may result in unintended conservative and perhaps counter-revolutionary consequences for social change.<sup>35</sup>

The false certification of mental disability produced a guilty class of influential men who had evaded the draft, and through rationalizing this decision, found it necessary to be negativistic and destructive toward many other phases of American life as well. It kept an articu-

late and concerned kind of potential observer, the civilian soldier and officer who might write home and mobilize opinion, out of the fighting zone, and so let laxity, cruelty, and atrocities go unreported and uncorrected. It increased the division between social classes. It lowered respect for physicians, and especially psychiatrists, as impartial and scientific professional people. If physicians can shape their decisions in one area to accord with their political views, they can do it in other areas as well.

In one of the few public discussions of draft resistance and its relationship to medical practice, Peter Elias wrote in an article in the *New England Journal of Medicine* of his eventual disillusionment with the role he was playing, and some letters to the editor in reply provided a brief flurry of reaction. Elias reported that many physicians working with the antiwar movement or helping registrants escape the draft became unhappy as they realized two important truths that somehow had previously escaped them—that many of the men for whom they secured rejections were not opposed to the war or the draft but were motivated by selfish and personal goals, and that the benefits of the policy accrued to the advantaged and their burden was shifted to the disadvantaged.<sup>36</sup>

But one doctor wrote in reply to Elias to express pleasure with the role he had played in using his medical authority to circumvent the draft. Mark Sicherman said, "It has been an immensely satisfying method of protesting an immoral war and disordered governmental priorities. It has helped to alleviate my sense of powerlessness much more than the multiplicity of marches, rallies, letter-writing campaigns, tax resistances, etc., with which I have been involved. It seems to me that ceasing to participate in medical draft resistance because of its potential social consequence is analogous to believing that antiwar protests served to prolong the war."<sup>37</sup>

In certifying abortions and draft exemption, psychiatrists had proven how effective their interventions could be, how established social policy could be circumvented by their diagnoses and recommendations. But the certification of abortion has not been a major problem since legalization, although it still has significance as a method of securing abortions for Medicaid recipients. And the draft is gone. These particular exercises of psychiatric power have faded from the scene. But they remain symbolic of larger issues: the efficacy of psychiatry in winning exemptions from society's rules, the way that psychiatrists will lend themselves to causes that they see as just and alter their diagnostic techniques to achieve social ends, and the lack of both self-criticism and outside criticism of psychiatry or even of

conceptualizing the role of psychiatry when it undertakes such social interventions.

Psychiatrists in the United States have criticized psychiatrists in totalitarian countries for being tools of the state and bending psychiatric diagnoses to serve a social purpose. They do not criticize themselves when they become tools either of the state or of movements that are in opposition to the policies of the state. Many Russian psychiatrists at least are sincere when they label a political dissident as psychiatrically ill, for they may believe that nonconformity is a symptom of diagnosable mental disease. The American psychiatrist who uses his labeling authority politically is often being deliberately dishonest.

The same potential for social usefulness in evading society's rules that was demonstrated concerning the draft and abortion is ready to show itself when other issues requiring exemptions from state policy arise. It manifests itself now in less obvious ways, as psychiatrists provide excuses for all the civil and criminal transgressions that require a letter from a psychiatrist or an opinion from a psychiatrist to help a person avoid some unpleasantness that he faces.

The same manipulations that were used against state policy on abortion and the draft are available to be used both against the state and in its service. As we shall see, an attorney general of the United States—Robert Kennedy—and a president—Richard Nixon—attempted to make use of the labeling power of psychiatrists in efforts to discredit their enemies.<sup>38</sup> The psychiatrists who deviate from professional standards in order to achieve humane social ends are relying on their own subjective definitions of humanity and are utilizing techniques that are also capable of being used for political purposes that may be the opposite of humane.

( 18 )

## The Political Use of Psychiatry Abroad and at Home

PSYCHIATRY HAS its ideological uses. Nazi Germany and contemporary Russia show two different ways it can serve the state.

Few people think of the German holocaust as having its roots in psychiatric practice for political purposes. In Germany a long history of interest in the prevention of the procreation of the "unfit" led in the 1920s and early 1930s to a program for eugenic sterilization for the "weak-minded," the "mentally ill," and criminals. After Hitler came to power this was extended to "Jews, Negroes, and Mongols" in the interest of racial purity. An estimated 2 million forced sterilizations were performed between 1935 and 1945.

This was enlarged into a program of medical and psychiatric "mercy killing," the starving of children who had psychiatric and behavioral disorders and were classified as "difficult children," along with children who had physical defects.

In 1939 a program of systematic killing of mental patients began under the sponsorship of Max de Crinis, professor of psychiatry at the University of Berlin, and more than a dozen other professors of psychiatry and departmental chairmen. Gas chambers and crematoria were set up in six psychiatric killing centers with a psychiatrist, Werner Heyde, in charge of the administration of the program.<sup>1</sup>

By 1941, according to a contemporary letter written by a doctor, there had been "the elimination of a few hundred thousand mental patients"; the Czech War Crimes Commission estimated the number killed in the "euthanasia program" at two hundred seventy thousand.

The psychiatric plan for the extermination of undesirables served the state so well that after two years, in late 1941, Hitler became interested in it and took the "race hygiene camps" out of the control

of psychiatrists to make them instruments of broader national policy of extermination. In the end 9 million people were exterminated. Simon Weisenthal has written that physicians continued to man the killing centers and to give them the aura of medical authority during the period when SS members were being trained to emulate their genocidal methods. The program followed medical procedure so exactly that selection sheets contained a space for "symptoms," except that now symptoms included such nonmedical manifestations as "member of the Communist party" or "dangerous instigator." The policy of the extermination of patients for psychiatric reasons also continued after the policy had been enlarged, and the population of German psychiatric hospitals, which had been between 300,000 and 320,000 in 1939, declined to 40,000 by 1946.<sup>2</sup>

There has been more awareness of the Russian use of psychiatry to enforce ideological conformity. Psychiatry has been used not to exterminate people but to extirpate their ideas. Knowledge of cruel treatment in the USSR is confined to reports about a small group of political activists and dissidents who are held in mental hospitals until they can be restored to more sane political opinions. The policy of defining mental illness on the basis of divergent political opinion serves to keep in line a much larger group who might be tempted into independent thought if there was not the threat of being labeled psychiatrically ill.

Andrei Snezhevsky is the literate and dignified dean of Soviet psychiatrists, head of the national organization of psychiatrists, director of the most important psychiatric research hospital, psychiatric adviser to the ministry of health, and editor of the major Soviet psychiatric periodical. His students head most of the other major hospitals and training centers. The fifteen thousand Soviet psychiatrists use the system of classification of psychiatric illness that Snezhevsky teaches. Snezhevsky sees many symptoms as indicative of schizophrenia. He lists three kinds of schizophrenia: continuous, periodic, and shiftlike. Some of the characteristics he lists for some schizophrenias are those used by psychiatrists in Western Europe and the United States, but others differ remarkably.

The sluggish or mild type of continuous schizophrenia, according to Snezhevsky, is destined to have a slow, steady, advancing course throughout life, but its symptoms are manifold and many people would fit under—or can easily be made to fit under—this diagnostic category. The symptoms are neurosis, self-consciousness, introspectiveness, obsessive doubts, conflicts with parental and other authorities, and "reformism." One characteristic of the paranoid type of continuous schizophrenia is a "parasitic life style." The mild subtype of

shiftlike schizophrenia has such characteristics as neurosis, social conscientiousness, philosophical concerns, and self-absorption.

The playwright Tom Stoppard in his *Every Good Boy Deserves Favor* described an encounter between a Soviet psychiatrist and a sane dissident who had been hospitalized as mentally ill after he had openly defended another dissident. The psychiatrist offers the "patient" his freedom if he admits that his acts have been irrational, that he was insane. The "patient" says, "I have no symptoms. I have opinions." The doctor replies, "Your opinions are your symptoms. Your disease is dissent."<sup>3</sup> The play's dialogue reproduces actual encounters between dissidents and their psychiatrists, who have told them their disease is dissent and that to prove mental health they will have to disown their opinions. At the present time at least 150 and probably several thousand Russian dissidents are being held in psychiatric hospitals for the "disease" of dissent.<sup>4</sup>

When Soviet psychiatrists are accused of unethical practice of psychiatry in the service of the state, they defend the charge in apparent good faith. They know that psychiatry is not needed as an agent of control in a country with such total control over its citizens, and they seem surprised that they are accused of complicity to mislabel dissidents as ill. They are conforming professionals, products of a conforming society, and of conforming education and professional training, and they see themselves as unexceptional medical practitioners when they apply definitions of mental disease broader than those used in many other countries.

Soviet psychiatrists, by a process of selection, are "scientists" who believe that science must serve the state and that the laws of the natural world that the scientist discovers must substantiate the social laws laid down by the government. Pavlovian psychology became an official dogma, Walter Reich writes, because it validated the basis of the central Marxist assumption that man can be changed by changing his environment.<sup>5</sup> With an official psychology emphasizing the conditioning of behavior, deviant behavior can be seen as both antisocial and pathological, and nonconformity and refusal to support the body politic easily appear to be mental illness.

The world was first made aware of this view through the news stories of the fate of Pyotr Grigorenko, a former Soviet army general. In 1964 he had been given a fifteen-month sentence for his outspoken stand on human rights and had been stripped of his rank of major general and expelled from the Communist party. During eight months of this sentence he had been held in a psychiatric hospital. He was arrested again in 1969 for defending Crimean Tatars charged with

anti-Soviet activity, and he was labeled schizophrenic; one of his characteristics was said to be obsessive concern with detail, a symptom of mild but progressive schizophrenia of the shiftlike variety. He was sent to a series of special hospitals over a four-year period, then transferred to an ordinary mental hospital. A statement issued by his wife on the fifth anniversary of his detention said, "As a sane man confined to mental hospitals for five years, sometimes alongside criminal lunatics, he has still maintained his spirits."<sup>6</sup>

Soon after the Grigorenko case came to public attention, a number of other similar instances were reported in the press. The most graphic account of abuses of civil procedural protections appeared in a book by the Medvedev brothers, *A Question of Madness*, published in 1971. Zhores, a biologist, had previously written a book detailing the rise and fall of Tofrim Lysenko, the biologist and agronomist whose views on the inheritability of acquired characteristics had become official Communist party dogma. Lysenko's theory during the agricultural scarcities of the early 1930s had promised the possibility of greater and more rapid increase in yields than traditional geneticists thought possible, and this had led to the suppression of orthodox genetics. Lysenko had done more than elevate his own theory into a party tenet; he had attacked traditional scientific and statistical methods and made those who followed them enemies of the state. Zhores Medvedev had opposed the system that had suppressed free scientific inquiry.

In May 1971 a mental hospital minibus carrying three policemen and two psychiatrists pulled up in front of Medvedev's house. With the aid of the policemen, the psychiatrists forced their way into the house. He was told, "If you refuse to talk to us, then we will be obliged to draw the appropriate conclusions." He had no history of previous psychiatric problems, but he was forcibly taken to a mental hospital for three days of examination, which were eventually stretched to six, to nine, and then further. He was diagnosed as insane on the basis of poor adaptation to social environment, obsessive reformist delusions, excessively scrupulous attention to detail in his writing as a publicist, deterioration in recent years in the quality of his scientific work, and a split personality expressed in the need to combine scientific work in his field with publicist writing."<sup>7</sup>

His twin brother, Roy, mobilized an international campaign to secure his release. One of the intellectuals who came to Medvedev's defense was Alexander Solzhenitsyn. He circulated a letter entitled "This is How We Live," attacking "servile psychiatrists who break their Hippocratic oath and are able to describe concern for social problems as 'mental illness,' [who] can declare a man insane for being

too passionate or for his being too calm, for the brightness of his talents or for his lack of them." Solzhenitsyn warned that "this could happen tomorrow to any one of us," and continued,

If only this were the first case! But it has become fashionable, this way of settling accounts—with no pretense at seeking out guilt, when it is too shameful to state the real reason . . . It is time to understand that the imprisonment of sane persons in madhouses because they have minds of their own is *spiritual murder*, a variation on the *gas chambers* and even more cruel . . . Like the gas chambers, these crimes will *never* be forgotten, and those involved will be condemned for all time, during their life and after their death, without benefit of moratorium.<sup>8</sup>

Zhores was held for nineteen days in a mental hospital, after which he was given a conditional release, apparently because his brother had been so successful in publicizing the issue of use of psychiatric hospitals for political purposes. Most of the dissidents who have been detained in psychiatric hospitals have spent long years there.

In addition to ordinary psychiatric hospitals, the Soviets have a notorious Institute of Forensic Psychiatry, the Serbsky Institute, in Moscow (where Medvedev was evaluated) and twelve special psychiatric hospitals for patients who represent a "special danger for society" (like Grigorenko). Many political dissenters, after being processed through the Serbsky Institute, are sent to the special hospitals. Vladimir Bukovsky was diagnosed at the Serbsky in 1963 as being schizophrenic and was sent to the Leningrad Special Psychiatric Hospital, where he was kept fifteen months. Eventually he had three more psychiatric hospitalizations and an eight-month stay at the Serbsky. When he was rearrested in 1967, the decision was made to prosecute him criminally rather than to route him to a mental hospital, and he was sentenced to prison for three years, which he served in a labor camp.

In 1971 he gathered together case records of six dissidents who had been declared insane and held in mental hospitals, and he had these records smuggled to the West. He appealed to the World Psychiatric Association, meeting in Mexico City in 1971 for its Fifth World Congress (held every six years), to study the records and make an issue of Soviet political use of psychiatry. The World Psychiatric Association did not discuss the issue; many of its members did not want to "politicize" psychiatry. Later a group of forty-four British psychiatrists did examine the records and concluded that none of these six patients was mentally ill but that they were only exercising "fundamental freedoms—as set out in the Universal



Declaration of Human Rights and guaranteed by the Soviet Constitution."<sup>9</sup> In the meantime Bukovsky had been arrested again, and he was being detained at the time the Mexico City congress, which refused to consider his charges, convened.

In late 1971 the American Psychiatric Association, through its board of trustees, did go on record opposing the "misuse of psychiatric facilities for the detention of persons solely on the basis of their political dissent," but it was careful to name no countries, to express the disapproval generally, "no matter where it occurs." I. F. Stone, in the *New York Review of Books*, criticized the statement as being an "innocuous formulation" that was "a far cry from setting up a committee to study the materials now available on the situation within the Soviet Union." Said Stone, "The fact is that at Mexico City the undemocratic practices customary in dealing with public complaint in the Soviet Union spread to the psychiatric congress. The bureaucracy of the world organization and the American Psychiatric Association in effect helped the Soviet bureaucracy to shelve and hush protest."<sup>10</sup> The next month the board of trustees finally voted to appoint a committee to study the available documents and to make recommendations, giving as one of its reasons, "because there are those who chose to misrepresent the APA position statement."

The APA eventually made the issue of Soviet treatment of dissenters a major civil-rights interest, but it took a number of years, the repeated evidence of new cases of psychiatric abuse, and a great effort on the part of a few members—Paul Chodoff, Walter Reich, Alfred Freeman, and John Spiegel—before there was any important involvement in the subject.

One complication for the APA is that, in the interest of scientific interchange among nations, it has encouraged psychiatrists from other countries to become members or corresponding fellows, and some have been given the titles of distinguished fellows and honorary fellows. These members would be subject to censure and perhaps to discipline if it could be established that they had participated in a political use of psychiatry. In addition to Russia, countries that have been accused of charging political dissidents with mental illness include Argentina, Brazil, Chile, Czechoslovakia, East Germany, Greece, Iran, Laos, Peru, Portugal, Romania, South Africa, Uganda, and Uruguay.<sup>11</sup>

The pressure for some action grew, however, as additional cases involving Soviet dissenters were publicized. The case of Leonid Plyushch, mathematician-cyberneticist, who has been accused of protesting the arrest of other dissidents and publishing his views in under-

ground publications, presented a graphic example not only of the detention and labeling practiced in Russia but also of psychiatric drugs and treatment forced on political prisoners to the point where they became tortures. Plyushch reported that he and other patients were given very large doses of neuroleptics; the drug he was given was haloperidol. He was given two series of insulin shock therapy. Plyushch writes of the effect of the treatment: "I was horrified to see how I deteriorated intellectually, morally and emotionally from day to day. My interest in political problems quickly disappeared, then my interest in scientific problems, and then my interest in my wife and children . . . My speech became jerky, abrupt. My memory deteriorated sharply . . ."<sup>12</sup> After almost three years in a mental hospital, Plyushch was released and allowed to emigrate.

In 1974 Vladimir Bukovsky was in Perm labor camp. For his smuggling of the 150 pages of documents detailing the case histories of six hospitalized dissidents, he had been sentenced to two years in prison and ten years at Perm. There he met Dr. Semyon Gluzman, a young Soviet psychiatrist who, after a year of practice, had protested General Grigorenko's commitment to a psychiatric hospital and had been sentenced to labor at Perm. Bukovsky and Gluzman together wrote *A Manual on Psychiatry for Dissidents*,<sup>13</sup> which was smuggled out of Russia.

The manual makes some of the same points that radical psychiatrists in the United States had been making for some time and that even middle-of-the-road psychiatrists have been forced to concede have some merit. Psychiatry lacks a scientific basis for its disease classification system. The basic diagnostic method is based on clinical observation and the collation of data, both of which are affected by subjectivity. The psychiatric concepts of health and sickness are arbitrary and culturally determined. The looseness of psychiatric concepts gives authority to the labeler-diagnostician.

The final advice to the dissident caught up in the mental health system who has not been able to deal with his tormentors in any other way is to dissemble, to tell the doctors he is reappraising his former unhealthy attitudes. "With all due respect for the courage of Leonid Plyushch, who is deliberately refusing to resort to any 'tactical devices' in the Dnepropetrovsk Special Psychiatric Hospital, we strongly advise you to make use of them all the same. For they, and they alone, are your only hope of salvation."

Bukovsky was exchanged in 1976 for Chilean Communist leader Luis Carvalan and is now a student at Cambridge. He has written the story of his twelve years in prisons, labor camps, and psychiatric hospi-

#### HOW PSYCHIATRISTS EXERCISE THEIR POWER

tals.<sup>14</sup> At this writing, Gluzman is in the city prison in Perm, having been transferred there from the labor camp, and his health is said to be failing rapidly.<sup>15</sup>

In 1978 the American Psychiatric Association took a lead at the Sixth Annual World Congress of Psychiatry in bringing to the attention of the world the Soviet treatment of dissidents by forcing discussion and supporting the passing of a resolution against the political use of psychiatry. The congress also passed the first International Code of Psychiatric Ethics, called the Declaration of Hawaii.<sup>16</sup> Lest the Russians go away mad, the president of the American Psychiatric Association made it clear that he supported the resolution "with a heavy heart," knowing "that the vast number of Soviet psychiatrists are worthy colleagues and practice ethically."

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The topic of the physician and the psychiatrist as torturer has begun to receive attention. Some commentators have suggested that the involuntary commitment of well people to mental hospitals, or of mentally ill people who are not dangerous to hospitals for dangerous criminal offenders, qualifies as torture, and this was one factor in the sponsoring in 1973 by Amnesty International of a Conference for the Abolition of Torture. The conference established a medical commission to deal with the medical ethics of torture. Physicians in many countries and psychiatrists in Portugal have been accused of applying sensory deprivation and denying sleep to prisoners in order to break them. Psychological and psychiatric techniques have improved the efficacy of brainwashing.<sup>17</sup> In 1975 the World Medical Assembly, meeting in Tokyo, issued a declaration on the ethical treatment of prisoners. It provided that physicians should diligently avoid abuse of their power to commit persons to mental hospitals as a means of avoiding due process of law, that medical personnel who have knowledge of torture or of plans for torture are under obligation to report this to proper authorities, and that physicians working in prisons and security camps should insist on autonomy outside the control of the institution.<sup>18</sup> How these principles could be applied in totalitarian countries is hard to conceptualize.

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For three hundred years, psychiatry has had a role in controlling deviant behavior. Eccentrics, "originals," vagrants, and homeless wanderers who caused little harm but were irritating to the society they lived in were, and sometimes still are, hospitalized or deprived

#### *The Political Use of Psychiatry*

of legal rights. Some critics of psychiatry see this as a political use of psychiatry and see psychiatry as promoting conformity.

In addition to its role in promoting conformity, American psychiatry, starting with World War I, performed a political function in four wars by classifying and placing personnel and working to keep soldiers at the front. Its use in the criminal-justice system, and particularly its care of sexual psychopaths and defective delinquents—in the dubious category between criminals and patients—began to be seen as political in the 1950s, although at the same time that psychiatry was receiving its first major criticisms for being a political tool it was usurping additional areas of the criminal-justice field by designating more and more criminal activities as sickness or illness.

The process of "decriminalization"—called by Nicholas Kittrie "divestment" of part of its territory by the criminal law—has brought juvenile delinquents, alcoholics, and addicts out of the area of crime and into the realm of political psychiatry. The great debate on the proper rule of criminal responsibility was politically motivated in order to try to bootleg into the criminal-justice system a more humane attitude so that more people could be saved from capital punishment during a period when state legislatures were opposed to abolishing the death sentence, and associated with this was the motive of giving behavioral scientists a larger role in criminal rehabilitation. Eventually the rehabilitation concept became tarnished because it was often ineffective and it was usually only attempted halfheartedly without enough commitment of personnel and money. It was, additionally, always a justification for long sentences, since the criminal sentence was now also a form of therapy as well as a punishment and longer terms could produce greater improvement.

Critics of psychiatry have found much more that is political in psychiatry. One political problem has been the unequal distribution of psychiatric care. An apparent paradox is that minorities complain that psychiatric care is not provided for them, and at the same time that psychiatric care is repressive and used as a discriminatory agent of social control. Both complaints have merit; the paradox is only apparent. It dissolves when it is realized that what minorities need is not more psychiatric care, which might only make their lot worse, but more psychiatric care of a better quality, the kind that is sometimes available to the more affluent if they are lucky enough to find interested and competent therapists. (Even the affluent often fall into the hands of psychiatrists relying largely on treatment of symptoms—those who use as therapeutic methods primarily electroshock and chemotherapy—or of analytically oriented therapists who apply their

#### HOW PSYCHIATRISTS EXERCISE THEIR POWER

verbal therapy in such an authoritarian way that the criterion for cure becomes the adoption of the values of the therapists. But at least the affluent have a choice of therapists. Morton Birnbaum, in particular, has denounced the two-tier system, in which an entirely different approach to psychiatry is found in state hospitals and community mental health care centers than is found in some private hospitals and some private therapeutic encounters.<sup>19</sup>

Many of the indigent and many minorities may be fortunate that they do not have access to more of the poor care offered to them. No one has ever shown a correlation between the providing of additional mental health services and increased mental health, although when basic services are not provided and the most disturbed people are allowed to roam free without attention, obviously there can be much harm. (One study shows that counseled delinquent children do less well than the uncounseled.)<sup>20</sup>

Minorities and the poor suffer another political inequality<sup>21</sup> at the hands of psychiatry. They have much less access to the psychiatric excuse. They are classified as criminal for the same kinds of acts that are excused on the grounds of mental illness or upset when committed by whites and the affluent.

Phyllis Chesler, in her *Women and Madness*,<sup>21</sup> makes the claim that women are oppressed by psychiatry, forced to conform to role stereotypes, and when they do not want to conform, diagnosed as mentally ill by men with a status quo orientation rather than by women, who can envision new kinds of roles for women.

Critics of psychiatry point out that white youths involved in protesting segregation in the 1960s were sometimes sent for psychiatric observation and that societal dropouts of the "beat generation" and early Vietnam protesters were labeled as mentally unstable and sometimes hospitalized. When soldiers or West Point plebes object to service practices, they can be seen as deserving psychiatric attention, as they can when they protest a war, denounce Watergate, or support amnesty.<sup>22</sup> Cases of the federal government's using the mental health system to immobilize or punish political dissenters are less frequent than in Russia, but they do exist. When President Woodrow Wilson was asked to intervene in favor of militant suffragettes who were on a hunger strike and had been moved to the District of Columbia jail's psychiatric ward and threatened with commitment, Wilson responded that the women's display of militancy was not only politically harmful but so unusual as to indicate instability.<sup>23</sup> We have already considered the case of Ezra Pound, the famous poet who was labeled mentally ill and held in St. Elizabeths Hospital for thirteen years to

#### *The Political Use of Psychiatry*

prevent him from being tried for his political broadcasts against the United States during World War II.<sup>24</sup> A striking example of the political use of psychiatry involves the psychiatric hospitalization of General Edwin Walker, which was planned by Attorney General Robert Kennedy and implemented by a government psychiatrist.

General Walker, a military hero of World War II, was in charge of the federal troops in the desegregation crisis at Little Rock, Arkansas, in 1957. In 1961 he resigned from the United States Army. He became identified with right-wing causes, was an avowed segregationist, and in September 1962 when federal troops were sent to the University of Mississippi ("Ole' Miss") at Oxford to enforce the enrollment of James Meredith, Walker was in Oxford, allegedly to aid the segregationists.<sup>25</sup>

After two days of disturbances at Oxford, Walker was arrested and charged with assaulting, resisting, or impeding United States marshals; conspiring to prevent discharge of duties; and inciting, assisting, and engaging in an insurrection against the authority of the United States. Walker waived a hearing and was assured he would receive a prompt trial in a United States District Court in Mississippi. He was held on \$100,000 bail.

On the day that Walker was arrested in Oxford, Carl Belcher, an attorney in the Department of Justice in Washington, called Dr. Charles Smith, medical director and chief psychiatrist at the Federal Bureau of Prisons, who was also in Washington, and asked him if he would be willing to prepare a statement about the psychiatric condition of Walker.

The Department of Justice furnished Dr. Smith with some written material. There was a report by an Associated Press reporter that Walker had led a group of students armed with rocks and sticks, a transcript of testimony Walker had given before the Special Preparedness Subcommittee of the Senate Committee on Armed Services in which he described a Communist conspiracy to weaken the United States, some news clippings about Walker, and army medical records that were all at least four years old. These materials were made available to Dr. Smith in the office of Attorney General Kennedy, and Smith spent six hours there studying them. Then, without seeing the patient or even having telephone contact with Walker or his representatives, Smith composed a memorandum concerning Walker's mental health.

Some of his reported behavior reflects sensitivity and essentially unpredictable and seemingly bizarre outbursts of the type often observed in individuals suffering with paranoid mental disorder. There are also indications in his medical history of functional and psychosomatic disorders which could be precursors of the more serious disorder which his present behavior suggests.

## HOW PSYCHIATRISTS EXERCISE THEIR POWER

From this and other information available to me I believe his recent behavior has been out of keeping with that of a person of his station, background, and training, and that as such it may be indicative of an underlying mental disturbance.

The next day the memorandum was put in final affidavit form, signed by Smith, and transmitted to the United States attorney in Oxford, who was handling the government's case against Walker. He promptly filed a motion to have Walker given a psychiatric examination in a suitable mental hospital. The psychiatric examination was ordered after a hearing at which neither Walker nor his attorney was present; the only psychiatric evidence on the need for examination was Smith's affidavit. In the meantime, Walker had already been placed in a border patrol plane and flown to Springfield, Missouri, where he was admitted to the United States Medical Center for Federal Prisoners. By this time he had raised his \$100,000 bail and could have been free pending indictment and trial, but as a patient in a mental hospital, according to custom, he could not be released on bail. The time period for evaluation is sixty to ninety days. If he had been found incompetent to stand trial, he would have been indefinitely, perhaps permanently, hospitalized, like Ezra Pound.

Walker's attorney characterized the commitment order as fantastic and said he had talked to Walker over a two-day period and found him "in complete possession of all mental faculties." The radical right and liberal civil-rights lawyers both saw the order to commit as political mistreatment of Walker. The Senate Judiciary Committee was asked to investigate. The American Civil Liberties Union protested the commitment for evaluation on the basis that neither Walker nor his lawyer had been present at the hearing, that there was no testimony by a psychiatrist who had examined Walker, and that there was nothing else presented at the hearing besides Smith's affidavit to indicate that Walker might be incompetent.

Walker's attorneys filed a petition for a writ of habeas corpus. The government was given five days to show that it had proper cause to keep Walker in custody without bond, but it never even attempted to prove it had a reason, and Walker was released on bond. The condition for his release, however, was that within five days he would undergo a psychiatric examination by Dr. Robert Stubblefield at the Southwest Medical Center in Dallas. Dr. Stubblefield's examination resulted in a report that Walker was competent to stand trial. But when the hearing was held to receive Stubblefield's report and to determine if Walker should stand trial, the government asked once again for Walker to be sent to the Springfield Military Hospital for a sixty- to ninety-day

## *The Political Use of Psychiatry*

mental examination. It presented America's foremost forensic psychiatrist, Manfred Guttmacher, as its chief psychiatric expert. Like Smith, Guttmacher had been furnished newspaper clippings, army medical records, and all the other documents in the possession of the Department of Justice, including a new piece of evidence, a movie of a press conference held by Walker in Dallas while out on bail. Guttmacher had never personally examined Walker, but he too was willing to testify that there were grounds for suspecting mental illness and incompetency to stand trial that were strong enough to justify the sixty- to ninety-day hospital commitment. Some of the evidence relied on by Guttmacher was newspaper clippings, and cross-examination revealed that in addition to clippings describing Walker as a fomenter of violence, there were other clippings—which Guttmacher had discounted—that described him in the opposite role, that of a peacemaker attempting to keep violence from getting out of bounds. Guttmacher explained that the inconsistent news stories indicated to him that Walker had "a great deal of confusion as to just what his role was in the situation." (The lawyer cross-examining him raised another possibility—that there might be inaccuracies in the news stories.)

Walker was held competent to stand trial. The Mississippi grand jury refused to indict him, and Walker later won libel verdicts against Associated Press and the newspapers that had asserted he had led a student charge against the United States marshals. (The Supreme Court reversed a \$500,000 award in favor of Walker against the Associated Press on the grounds that the mistaken newspaper account had not been inspired by malice and Walker was a public figure.)<sup>26</sup>

Robert Kennedy was intimately involved in this attempt to have Walker committed. Dr. Smith examined the documents from the Department of Justice's file in his office (and was served dinner in Kennedy's office while he studied them). The story is indicative of the attorney general's willingness to make a political use of psychiatry, particularly as shown by his insistence that when one effort utilizing Smith failed, another effort utilizing Guttmacher should be made.

More than 2500 complaints concerning this use of psychiatry were received by the American Medical Association. Many of the complainants were members of the radical right, but liberals interested in civil rights, who also had been affronted by the government's tactics, were represented. The AMA's Judicial Council investigated the matter and consulted several sources—three psychiatrists (whose names were never made known), its own Council of Mental Health, and the American Psychiatric Association. All agreed that Smith had not violated any of the formal Principles of Medical Ethics and that the affidavit he had

#### HOW PSYCHIATRISTS EXERCISE THEIR POWER

given was not a "medical diagnosis." What it was exactly was never clarified. The only light on this in the judicial opinion rendered by the Judicial Council is: "Some expressed the opinion that he had given an impression or opinion based on information given to him. In this connection, it was pointed out that physicians are frequently called upon by attorneys or courts to render a professional opinion to assist the court in deciding a technical point. It is then the court's responsibility to evaluate such opinion."

Having stated without equivocation that nothing wrong had been done, the AMA Judicial Council made it clear that it should never occur again. "The Judicial Council expresses concern about possible future situations wherein a physician might be subject to political control in order to pervert his medical opinion or to be used as a tool for political purposes. The Council urges physicians to be alert to such possibilities and to refuse to give such opinions which might be used for political purposes."<sup>27</sup>

In the presidential campaign of 1964, when Barry Goldwater opposed the incumbent Lyndon Johnson, 2417 psychiatrists responded to a *Fact* magazine poll concerning Goldwater's mental stability. The majority stated that they saw indications of personality disturbance and instability in Goldwater, whereas Johnson was seen as being healthy and stable. In this instance, organized medicine condemned evaluation without personal examination. Donovan Ward, president of the AMA, in an official statement for his organization, said that "a physician can properly arrive at a medical opinion on the health of an individual only by following accepted clinical procedures, including personal examination of the patient."<sup>28</sup> (When Goldwater sued Ralph Ginzburg, publisher of *Fact*, malice was found and he was allowed to recover damages.)<sup>29</sup>

Whether Kennedy and other attorneys general—and the presidents they served—were aware of the use of psychiatrists and psychologists in bizarre experiments conducted by the armed forces and the Central Intelligence Agency is still in question. Starting during World War II, behavioral scientists were called in to help the armed forces and other branches of the government with a number of problems. What pressures would cause a captured serviceman to break and reveal information, and what indoctrination would help him to withstand pressure? What new nerve gases and other novel means of influencing mind and behavior could be devised as offensive weapons, and how would they be defended against if Nazi Germany or, later, Soviet Russia used such methods? Some of the contributions behavioral scientists were asked to make were innocuous and well within the limits

#### *The Political Use of Psychiatry*

allowed by professional ethics, such as designing training manuals that were understandable and could be easily followed. Others were strange indeed, and as time and the Cold War continued, they became more and more outlandish. We do not know if knowledge of these projects was entirely confined to the agencies that sponsored them or if higher authorities were aware of what was going on. We do know that a large number of psychiatrists and psychologists were involved in such projects over a long period of time, some aware, and many of them unaware, that the bills for their research were being paid for by the government. We also know that the greatest secrecy was maintained over decades, that few other psychiatrists and psychologists knew that these experiments were underway, and that even those involved did not grasp the large-scale involvement of psychiatry. The beginnings of these programs date back to 1943, when the Office of Strategic Services conducted tests, apparently in some cases on unwitting subjects, to see if marijuana might be used to break down the defenses of captured enemy agents.<sup>30</sup>

In the immediate post-World War II period the navy began its project CHATTER, testing "truth drugs" to use in interrogation and developing drugs that could be given to American agents to prevent them from being brainwashed. The CIA project BLUEBIRD/ARTICHOKE was begun in 1950 to develop "special interrogation techniques" involving hypnosis and chemical and biological agents.<sup>31</sup> These programs were at their most popular during the 1950s and 1960s. CIA-Director Admiral Stansfield Turner told Congress that the programs were phased out in the late 1960s, but John Marks, a former State Department intelligence officer who has written a book about the CIA's activities in mind control, asserts that a new program was started, using a cover organization headed by Dr. Edwin Land, founder of Polaroid, which continued well into the 1970s.<sup>32</sup> As recently as June 1977 the CIA was interested in "human testing procedures" to determine if drugs such as cocaine, mescaline, scopolamine, and LSD could increase susceptibility to hypnosis, a technique that presumably might help in eliciting information from spies.<sup>33</sup>

MKULTRA was the cryptonym for a major drug-testing research and development program authorized by CIA Director Allen Dulles in 1953 at the height of the Cold War. One of the early projects involved age regression under drugs, and hypnosis of two "experienced professional-type agents," who apparently had defected from Russia. Age regression was used to elicit additional memories concerning the lives of the spies before defection and to help check on the reliability of the informants.



MKULTRA was described in a CIA report as "research and development of chemical, biological, and radiological materials capable of employment in clandestine operations to control human behavior."<sup>34</sup> Another description of the program, by Dr. Sidney Gottlieb, director of the Technical Services Office of the CIA, which ran the program, was that it was designed to test surreptitious methods of administering drugs, those that could be used in interrogation and "knockout" operations and those designed to disable a victim temporarily.

The Rockefeller Commission to investigate CIA activities within the United States, in its report in 1975, described the relationship of the psychochemical experimentation to a larger program. "The drug program was a part of a much larger CIA program to study possible means for controlling human behavior. Other studies explored the effects of radiation, electric-shock, psychology, psychiatry, sociology, and harassment substances."<sup>35</sup>

Beginning in 1955, under an informal arrangement with the Federal Bureau of Drug Abuse Control, tests were done on "unsuspecting subjects in normal social situations." In some of the MKULTRA experiments conducted with the cooperation of the Department of Defense, drugs were administered to unknowing army personnel, civilian employees of the armed forces, mental patients, and prisoners. The concept of informed consent was not ever considered.

One of the unwitting subjects was Harold Blauer, a former army colonel and a professional tennis player who had been divorced by his wife, became depressed, and entered the New York Psychiatric Institute in December 1952. On January 8, the day before he was scheduled to be released, he was injected with a "mescaline derivative" without his permission or the permission or knowledge of his family. He died less than two and a half hours after the injection. His family sued and the government settled for \$18,000.<sup>36</sup> (When the *Village Voice* recently tried to investigate this and alleged other instances of drug experimentation at the New York Psychiatric Institute, the reporter claimed he was faced with a cover-up by officials and an "unwritten code of secrecy among ... psychiatric researchers.")<sup>37</sup>

The second subject who died as the result of the experimentation was Frank Olson, an army biochemist who was surreptitiously given LSD as part of the MKULTRA program in 1953, and while under its influence, plunged to his death from a tenth-floor New York hotel window. No explanation was given to his family, and they did not learn until 1975, twenty-two years later, that his death was not a planned suicide. (In other experiments university students were given LSD.) In

### *The Political Use of Psychiatry*

1976, as the result of a suit against the government, the family was awarded \$750,000.<sup>38</sup>

As part of Project ARTICHOKE, the CIA considered a plan to drug an important official in a foreign government while he was drinking, and then when he was in a state of altered consciousness, to program him to assassinate his head of government (the true *Manchurian Candidate* situation). A memorandum on this plan said there were operational limitations—access to the subject might be difficult and the agency would have little physical control over him—but that in spite of this the project team would undertake the problem if there were "crash conditions." The CIA has said that this and other bizarre plans were "purely hypothetical."<sup>39</sup>

For a number of years the CIA tried to keep information of MKULTRA and other experiments secret, even from the Senate Select Committee on Intelligence. Dr. Gottlieb told a 1975 investigation by the Select Committee that in 1973 he had followed the instruction of then CIA Director Richard Helms and destroyed the MKULTRA records.<sup>40</sup> In 1977 seven boxes of documents relating to MKULTRA were discovered that dealt with financial payments to eighty-six universities and other institutions. The documents had not been destroyed because they had been filed under budgetary rather than project titles.<sup>41</sup> Eventually 1600 pages of heavily censored documents about the project were released by the CIA.<sup>42</sup>

Two of the cover organizations set up by the CIA to funnel money to research projects without their knowledge that the CIA was the source were the "Society for the Investigation of Human Ecology" and the "Geshikter Foundation for Medical Research."<sup>43</sup> Researchers in altered-mind states found these "philanthropic foundations" were eager to support their work, and they did not know they were being supported by the CIA.

Some of the experiments were so strange that a study might be undertaken of the psychology of the experimenters. One operation, which went on for nine years, was called by CIA wits "Operation Climax." Facilities described in most newspapers as "controlled bordellos," but called by the *New York Times* "field laboratories," were maintained in New York and San Francisco. These were rented apartments with red drapes, dressing tables trimmed in black velveteen, paintings of cancan dancers, and two-way mirrors and elaborate recording equipment for spying on unwitting subjects of the experiments. The subjects were picked up by prostitutes in bars, had drugs slipped into their drinks, and were lured to the observation rooms. They were observed in order to gain data

on the effect of the drugs on unsuspecting people. A magician, John Mulholland, was on the CIA payroll to teach methods of giving the drugs surreptitiously.<sup>44</sup>

There were many other strange projects. One experiment involved hypnotized women who were persuaded to simulate immoral, abnormal, or disloyal behavior. The conclusion was: "This activity clearly indicates that individuals under hypnosis might be compromised and blackmailed."<sup>45</sup> In another experiment fifteen boys from low-income families and an undisclosed ethnic background were selected by the National Health Service to be circumcised, and psychological testing was done before and after the operation to see "if the operation left any emotional after-effects" and to discover "if circumcision at a significant stage of a child's development produced anxieties such as fear of castration."<sup>46</sup>

Eventually, as the Cold War heated up and fears of Soviet breakthroughs became more acute, even more fanciful projects were inaugurated. A series of experiments at the Stanford Research Center concerned the ability of psychics to influence the behavior of others, to alter their emotions or health, and to knock them out at a distance or kill them by remote influence. One thirty thousand dollar study dealt with the feasibility of using psychics to transmit messages without apparatus and even of employing the minds of psychics as free-ranging spies, able to slip past embassy guards and penetrate locked files. Mulholland was employed to analyze the work of a "mystic" who said he had devised a system for sending and receiving telepathic messages.<sup>47</sup> Because these projects were considered potentially militarily valuable, and also because the researchers knew there would be embarrassment if Congress and the press knew the nature of the studies, they were sometimes dressed up and disguised with imposing titles. One study on using psychic power to transmit messages was named "Novel Biophysical Information Transfer Mechanisms (NBIT)."

The CIA used its own staff of trained psychologists, some of them stationed overseas, to help operations officers assess foreign nationals being recruited as agents. The psychologists administered purported intelligence tests, which were in reality disguised personality assessment tests. When they were not able to do personal interviews with the potential recruits, they gave indirect assessments based on "source material," including the interviews of others and specimens of hand writing evaluated by graphologists. On the basis of their assessments psychologists advised on the best inducements for persuading a subject to accept covert employment. They also gave courses in psycho-

### *The Political Use of Psychiatry*

logical assessment to operations officers to help them develop their own assessment skills.<sup>48</sup>

The CIA was ready to enlist the power of psychiatry in any way that seemed helpful, including brainwashing or commitment to a mental hospital as "disposal methods" for "blown agents, foreign defectors who had outlived their usefulness, and defecting trainees." Erasing memory by the use of hypnosis, lysergic acid and other drugs, electroshock, and other methods of electrical stimulation of the brain were considered as possible solutions to the problem of subjects with secret information who might have to be maintained in maximum security isolation for long periods to keep them from revealing information. Experiments were performed to see how effective these techniques might be. The agency doctor who described a number of these possibilities in a memorandum also "mentioned the possible usage of the prefrontal lobotomy and stated he thought this technique could be applied to individuals his agency was no longer concerned with in the overseas areas on an experimental basis."<sup>49</sup>

Uri Nosenko defected from Russia in 1963 and told the CIA he had information about Lee Harvey Oswald. The CIA became convinced he was still acting for Russia and was attempting to plant false information, and it set out to break him. For three years he was held incommunicado in a concrete vault. He was watched continuously, not given adequate food, and not allowed to read or occupy himself in any way while the process of attempting to break him down—the CIA policy of "hostile interrogation"—continued. When he made a calendar out of lint to keep track of the time, it was swept away, and the next calendar was swept away too. When he managed to fashion a make-shift chess set, it was taken away from him. The CIA official in charge, the deputy director of the CIA's Soviet Branch, in a memorandum to himself, listed ways to deal with Nosenko more convenient than keeping him in his vault forever. The three options for disposal in the memorandum were to liquidate the man, to render him incapable of telling a coherent story through use of drugs in order to commit him to a mental hospital, or to commit him without having first produced mental aberration. In 1968 the CIA reversed its thinking on Nosenko and decided he was a legitimate defector. Information about Nosenko's detention only emerged ten years later when the House Select Committee on Assassinations was informed.<sup>50</sup>

In at least one case the CIA used commitment as a temporary expedient to handle a difficult agent. A 1952 memorandum discussing the case was made public under the Freedom of Information Act in 1979, but it was censored to suppress identifying information. A twenty-

nine-year-old "ambitious, bright" leader of a small political party was "ostensibly working for independence" of an unidentified foreign country and was also working clandestinely for the CIA. The CIA was informed that he was considering selling out to another intelligence agency and arranged for him to be taken into custody by his country's police. He was held in prison for six months until he became a "nuisance," and the police of his country then asked the CIA "to take him back." The CIA, according to its memorandum, received him and put him in a mental hospital, diagnosed as "a psychopathic personality," even though he was "not a psychopathic personality." The memorandum raised the question of how to dispose of this troublesome individual: "He has now been in a hospital for several months and the hospital authorities now want to get him out since he is causing considerable trouble." The memorandum suggests that brainwashing might persuade him to be loyal to the CIA, and if that failed, "disposal is perfectly O.K."<sup>51</sup> The fate of the person is not known. This use of a psychiatric hospital for political convenience has never been protested.

A psychiatric threat to civil liberties in more recent times was the alliance between the National Institute of Mental Health, a branch of the Department of Health, Education, and Welfare, and the Law Enforcement Assistance Administration, a part of the Department of Justice. These two agencies worked together to find methods of behavior control that would prevent and curb violence and crime. The collaboration between the two agencies began in the late 1960s, with NIMH counseling potential recipients of grants on how to secure criminal-justice funding for "human services"—juvenile delinquency studies, forensic services on psychiatric wards, counseling and correctional programs, drug abuse programs, and experimentation in the reduction of violence. By 1974 LEAA had funded more than 350 projects that involved behavior modification, chemotherapy, or some other medical experimentation. In 1973 NIMH and LEAA entered into a formal agreement under which mental health professionals would provide technical assistance for state and local criminal-justice agencies.<sup>52</sup>

An experimental hospital that was designed to use behavior modification in the rehabilitation of federal prisoners was opened at Butner, North Carolina. By the time the hospital was in operation, its plan to use behavior modification techniques to rehabilitate criminals had become so controversial that its director had resigned and its therapeutic programs had been altered to eliminate the use of deprivation stimulus.<sup>53</sup> The Law Enforcement Assistance Administration's proposed sponsorship of a Center for the Study and Reduction of Violence

at the University of California at Los Angeles led to the revelation that experimental aversive conditioning had already been funded by the state of California at Vacaville Prison and that psychosurgery was contemplated. After newspaper publicity and a California legislative investigation, it was decided not to fund the center.<sup>54</sup> All these projects offer evidence of the eagerness with which the government seeks medical and behavioral science help in developing ways to control behavior.

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The first public act in the conspiracy we know as the Watergate cover-up was not the break-in at the Watergate but a break-in nine months earlier designed to secure psychiatric information to use against an enemy of the president. Daniel Ellsberg, originally a staunch supporter of the Vietnam War, had turned antiwar and made copies of volumes of secret Defense Department papers available to the *New York Times*. The government attempted to suppress publication, but the Supreme Court upheld the right of newspapers to print the material.

Nixon was enraged and he wanted action taken against Ellsberg that would discredit him and impair his political effectiveness. He urged Charles Colson to disseminate damaging information about Ellsberg and the people he associated with in order to show disreputable personal characteristics and lack of patriotism. Howard Hunt, hired as a White House consultant to discredit Ellsberg, asked the CIA to provide a psychological profile that could be used to hurt Ellsberg's reputation. The CIA's Office of Medical Services routinely prepared psychological profiles on world figures in order to help the government deal with them, and Fidel Castro, among other leaders, had been one of its subjects. (In 1943 the CIA's predecessor agency, the Office of Strategic Services, had had a psychiatrist, Walter Langer, prepare a secret psychological report on Adolf Hitler in which he had predicted Hitler's mental deterioration and his eventual suicide.)<sup>55</sup>

The CIA's chief psychiatrist, Dr. Bernard Malloy, was assigned to this project, but possibly a second CIA psychiatrist, whose name has never been revealed, did the bulk of the preparation of the report. The project was cleared with CIA Director Richard Helms, and then Malloy or his assistant, working in an office in the basement of the Executive Office Building, put together a description of Ellsberg. Malloy was told that the Ellsberg profile "was of the highest priority, even over the SALT negotiations."<sup>56</sup>

The finished profile described Ellsberg as motivated by "what he

deemed a higher order of patriotism."<sup>57</sup> Hunt said in a conference with Malloy that they needed something more than that, data that would help the administration refer knowledgeably to Ellsberg's "oedipal conflicts or castration fears." He wanted conclusions drawn from Ellsberg's "rather peculiar background," experiments with drugs and sex, a "bizarre" sex life between marriages—including Swedish and Indonesian mistresses—and participation in orgies.

The Nixon staff knew from FBI reports that Ellsberg was in psychiatric or psychoanalytic treatment with Dr. Lewis Fielding, a Beverly Hills psychoanalyst. Two FBI agents appeared at Fielding's office and asked for information about Ellsberg. Fielding refused to confer further until he had had a chance to consult his lawyer. After having done so, he told the FBI that he would not violate the confidential doctor-patient relationship. On July 26, another agent was refused information by Fielding.<sup>58</sup> Hunt recruited a team and broke into Fielding's office.

The break-in was completely unsuccessful; the team could not locate Fielding's file on Ellsberg. Fielding reported later that the next day he found about forty pages of notes on Ellsberg on his office floor, but the burglars apparently had not recognized these for what they were.

Hunt was still determined to get his second profile, and more secret material from FBI files and from the State Department was furnished to Malloy. The second profile turned out to be almost equally useless for Hunt's purposes. It read in part:

The loss of interest in the piano, and the subsequent concentration on a sport were associated with an automobile accident which led to his wearing a cast for a year because of a broken knee. His father was driving and his mother and sister were killed . . . It is possible that strong feelings of resentment and rage and frustration stirred up by death and personal illness or injury are associated with his apparently sudden and extreme shifts in loyalty and enthusiasm . . .

His central theme for leaking the Pentagon Papers has been that "the Executive" should not alone have so much authority as to plunge the country into war and the misery and death that it brings. It is probable that the Subject is not only referring here to the various Presidents, but also to his own father whom, after all, he saw as responsible for the death of his mother and sister, injuring him to boot . . .

To an important degree the leaking of the Pentagon Papers was also an act of aggression at his analyst, as well as at the President and his father . . . It is of course possible that the Subject has more documents with which he will seek to continue his odyssey of being appreciated (and disappointed) by a senior personage . . .<sup>59</sup>

Hunt and his associates were later assigned to the Committee for the Re-election of the President, and it was in behalf of that group that the famous Watergate break-in took place on June 17, 1972, nine months after the affair of Fielding's files.<sup>60</sup>

The *New York Times* in 1974 attributed to "well-placed sources" in the office of Special Prosecutor Leon Jaworski the theory that the Watergate cover-up had as a principal motive the desire not only to cover up the Watergate conspiracy but also to cover up the story of the Fielding break-in. (There was also a break-in, never shown to be by the government, at the New York office of the analyst who had Ellsberg's wife, Patricia, in treatment, and there had been an FBI request for information from her analyst.)<sup>61</sup> The Watergate break-in, and even its ties to the White House, might have been explained early in the game as typical campaign hijinks and no different from others on political headquarters that had occurred during election years in the past. The Fielding break-in obviously was something else. It was not campaign-connected. It emanated from the White House, not the Committee for the Re-election of the President, and it could not be justified on the ground of any threat to national security, although at one time Nixon made this claim. The Fielding incident gave force to Howard Hunt's threat to reveal his participation in "seamy things" if a solid defense were not maintained.<sup>62</sup>

As striking as the government's use of psychiatry in the Ellsberg case was the lack of psychiatric interest in, and response to, the news that it had taken place. The *New York Times*, in October 1976, contained news of the request of Robert Jay Lifton, a Yale University psychiatrist, for an American Psychiatric Association investigation and censure of Dr. Malloy. A member of the association wrote in to its official newspaper complaining that no news about Lifton's request had appeared in the APA publication,<sup>63</sup> but the whole case continued to get almost no professional attention. The matter of Malloy's conduct was referred to an appropriate APA committee, and nothing was ever heard of the matter again. (The APA has also referred to its Committee to Study Uses and Abuses of Psychiatry the matter of "Psychiatry's Role in the CIA Efforts to Control Behavior,"<sup>64</sup> and nothing further has been heard on this issue from the APA.)

Watergate has another connection with psychiatry. When the more famous plumbers' break-in occurred, psychiatry was used to immobilize and to discredit the one person who could have "blown the whistle" and cleared up the matter in a short time. If Washington reporters had not become convinced, by repeated statements of people close to Nixon, that Martha Mitchell was crazy, there were any number of

#### HOW PSYCHIATRISTS EXERCISE THEIR POWER

times when her leads could have led to a determination that, as she consistently claimed, the Watergate conspiracy reached up to the highest level of the administration, that the administration was consistently using lies and deceit in its "stonewalling" effort to maintain the cover-up, and that blame was being reassigned to protect the president.

As a lonely cabinet wife, Martha Mitchell was in the habit of calling up reporters late at night, particularly the sympathetic Helen Thomas of United Press International, and giving forthright views of Washington life and politics. Sometimes she had been drinking when she made these calls.

The weekend of the Watergate break-in, Martha and John Mitchell, who had resigned as attorney general to head the Committee to Re-elect the President, were in California to raise money for the campaign and were staying at a resort motel at Newport Beach. Mitchell returned to Washington at the news that five burglars who had attempted to ransack the Democratic National Headquarters at the Watergate had been arrested. He knew that one of the arrested burglars, who had given a false name to the police, was in reality James McCord, Jr., formerly Martha's bodyguard and now chief of security for the committee. He wanted to keep Martha from this knowledge, and he wanted to prevent her from communicating with the press, so he ordered her new bodyguard, Steve King, to see that she did not receive newspapers or have any other access to news, and that she be kept isolated until he had a chance to deal with the situation. Martha was kept a prisoner for almost a week at the Newporter Inn, guarded by four bodyguards and her secretary. While Mitchell was telling the press that he was "satisfied that no senior official in the Committee to Re-elect the President had any connection" with the incident, Martha remained in ignorance that there had even been a Watergate break-in, and out of reach of the telephone. On the evening of the fourth day of her imprisonment, while King was asleep, she put a telephone call through to Helen Thomas, but King awoke, pulled the telephone out of the wall, and in the process of trying to subdue her threw her into a window, which badly cut her hand. The doctor who was called the next morning to look after the wound was told she was hysterical when she claimed she was being kept a political prisoner. He paid no attention to her protests and proceeded to inject her with a tranquilizer. The cut required emergency-room treatment and she was taken to a local hospital, where she maintained once more that she was a political prisoner and was being mis-

#### *The Political Use of Psychiatry*

treated. Again she was seen as hysterical or drunk and was not believed. Several days later Martha was flown back to her home near Washington and kept there in seclusion.

Martha's power to hurt Nixon by insisting that something was very wrong with the administration, that its abuse of power extended to the highest levels, was nullified by reports—which one newspaper said emanated from Republicans in the highest places—that she had had a nervous breakdown and that she was untrustworthy.

When a reporter did get through to her and the story of her detention and forced treatment was printed for the first time, it was generally interpreted as another example of outrageous, untrustworthy Martha. In reality she had been uncompromisingly honest—this was one of her best qualities—but the stigma of alcoholism and mental patient were imputed to her to impair credibility. She continued during the following months to accuse the administration of a cover-up, to say that the president wanted others to "take the rap" for him and that she was afraid her husband would end up taking the blame and paying the penalty. Martha told Thomas in one interview that Mitchell had shielded Nixon in his testimony before the Senate Watergate Committee because he hoped Nixon would pay him back with executive clemency if he were to be convicted for crimes. No one except Thomas paid serious attention to the accusations.<sup>65</sup>

There have been many political uses of psychiatry down through the years. Most of them concern people much less prestigious than Daniel Ellsberg, Martha Mitchell, Thomas Eagleton, Ezra Pound, or General Edwin Walker. Women have been particular targets for discredit. In a well-publicized incident in 1962, two reporters, Sarah McClendon and Mary McGrory, secured the freedom of a Department of Agriculture secretary who had tried to keep her employer's files from being removed during an investigation of department irregularities and had been hospitalized on the certification of two psychiatrists that she was of unsound mind.<sup>66</sup> Recently, in the manner used by Wilbur Mills against Fanne Fox, and Wayne Hayes against Elizabeth Ray, Herman Talmadge used the discrediting technique by imputing mental instability to his former wife, Betty Talmadge, after she had given testimony about his financial irregularities.

One important abuse of psychiatry has been in the field of security clearance, where psychiatrists with no real scientific basis for their determinations can disqualify a government employee for employment or for advancement. Often much of the material the psychiatrist finds in the file that he uses to assist him in the evaluation is hearsay, and the applicant does not have a chance to respond to his accusers.



#### HOW PSYCHIATRISTS EXERCISE THEIR POWER

The government's psychiatric policy is ambivalent. It pays generously for its employees' psychiatric treatment and it passes regulations prohibiting discrimination against the mentally ill, yet it uses evidence of emotional instability—even at a very remote point in the past—as reason to reject people for employment, to fire them, or to keep them from sensitive assignments. Prospective employees for nuclear power plants, the military working on nuclear submarines or with nuclear missiles are psychiatrically screened. No one knows if the criteria the psychiatrists use are valid. If it were not for psychiatric screening, such traditional evaluation standards as personal appearance and behavior, history, record of previous mental problems, and personal and business recommendations would need to be relied on, as they were before the rise of modern psychiatry. The psychiatric screening, as crude as it is, seems reassuring to those who employ it. The screeners are naturally interested more in the safety of society than in the right of the individual to have the job, and doubts are resolved against the prospective employee unless he has unique and indispensable attributes (as in the case of some technical research).

\* \* \*

The ultimate political power a psychiatrist can possess is to determine who is qualified to lead and to rule. Possibly psychiatrists came close to exercising this ultimate power during the last days of the Nixon administration.

In August 1974 it was apparent to everyone except Nixon and some members of his family that he would have to resign. General Alexander Haig, who had replaced H. R. Haldeman as White House chief of staff and had assumed increasing importance as the administration became unhinged during its final days, had reason to think the president might commit suicide. Woodward and Bernstein report in *The Final Days* that Haig ordered the president's doctors to deny him all pills and to take away from him the sleeping pills and tranquilizers already in his possession.<sup>67</sup> It is also believed that Haig had contingency plans in the event that the president, rather than resigning, would take some strange or precipitous action, try to maintain his power by force, or make irrational decisions. Haig has never revealed how incompetent the president was. When asked if he was acting president at any time, he has admitted, "I had to do things I would not have done under ordinary circumstances." He has been asked if there was ever a time when Nixon was irrational and unable to act, and his reply was: "If there were, I wouldn't tell anybody."<sup>68</sup> We do not know how psychiatrists would have dealt with the actual or alleged in-

#### *The Political Use of Psychiatry*

competency of the chief executive, but we think that during the last days of the administration the possibility that they would have to deal with it was very great.

Reporters had been aware for many years that Nixon and those around him had a "siege mentality" and that the White House saw evidence of unfriendliness—some of its perception was accurate—everywhere around. This had even been dignified with the title of the president's or the administration's "paranoia." Nixon had surprised the press and the nation in New Orleans in August 1973 when in full view of television cameras he grabbed his press secretary, Ron Ziegler, by the shoulders and issued a sharp order to him. Nixon then spun Ziegler around and gave him what was described as a "neck-popping shove" toward the press corps. The president was irritated because some members of the press were at his heels, following him into a convention hall instead of using another entrance that had been designated for them. A reporter heard the president tell Ziegler, "I don't want the press near me. You take care of it."

In a press briefing a few hours later, Deputy Press Secretary Gerald Warren acknowledged that "the past few months have been periods of pressure on the president." He also explained that the president was upset because his motorcade had been rerouted because of a reported assassination threat and he had not been able to greet the crowds that had gathered for him.

Some congressional leaders and others who saw Nixon at this time described him as increasingly haggard and tense. Presidential Counselor Melvin Laird told a reporter that "it might have been better if the President had taken a long rest" after his pneumonia the previous month."<sup>69</sup>

The president became more and more secluded, making himself available only to a few advisers and his family. At his rare press conferences he was sweaty and trembling, and he stuttered. There were rumors about his nocturnal piano playing at the White House, his obsessive concern with details, and his high-speed automobile dashes along California freeways. One aide recalled that during this period he passed Nixon in the hallway and heard him muttering what sounded like, "The bastards! The bastards!" His conversations rambled, and sometimes they were almost incoherent. J. Anthony Lukas writes: "Certainly, much of Nixon's behavior during his last year in office was, at the very least, unorthodox . . . One assistant compares Nixon in August 1974 to Captain Queeg, the erratic commander in Herman Wouk's *The Caine Mutiny*: 'Like Queeg, he was given to sudden rages, to wild suspicions, terrible doubts about everybody.'"

#### HOW PSYCHIATRISTS EXERCISE THEIR POWER

And there are other stories, stranger yet, which one is reluctant to report because they are so difficult to confirm."<sup>70</sup>

Haig did not have to use his contingency plans. Nixon resigned without incident, and the question of his mental stability did not become a matter for psychiatric determination. (Nixon's mental state did possibly influence Ford to pardon him. The *New York Times* and the *Washington Post* have stated that the reason for the sudden pardon was Haig's representation to the president that Nixon was in an "alarming state of health," that he was acutely depressed, and that he was a suicidal risk. According to one informant to the *New York Times*, Haig warned Ford ten days before the pardon that unless Ford moved quickly in announcing a full, unconditional pardon, instead of waiting for legal action to be taken, it might be too late to avert the "possible personal and national tragedy" of Nixon's complete physical and mental collapse.)<sup>71</sup>

A number of presidents in this century have had disabilities that affected, or had the potential of affecting, their ability to govern. Wilson was incapacitated by a stroke, but the extent of his disability was kept secret by a conspiracy of doctors and those closest to him. Franklin D. Roosevelt, in the months before his sudden death from a stroke, showed signs of rapid mental deterioration. Eisenhower, in addition to other health problems, had a stroke during his second term.<sup>72</sup> If John Kennedy had survived the Dallas shooting, he would have been brain-damaged, which was the case when Garfield was shot. The question of presidential disability has a great potential to cause disunion, and therefore the psychiatrists called in to resolve any dispute about the ability of the president would have an ultimate kind of political power.

( 19 )

#### The Psychiatrist as Social Engineer

WHEN WE THINK of seeing a psychiatrist, we think of a one-to-one relationship. Some psychiatrists deal with people in the mass—hospital psychiatrists have always been involved in setting up uniform treatment conditions for large numbers of people—but outpatient psychiatry developed as a medical specialty that focused on the individual. Particularly after the infusion of Freudian theory, with its emphasis on personal traumas and reactions to them and on the unique interchange between doctor and patient, psychiatry has been concerned with the special qualities of each person and the way he reacts in close interpersonal relationships.

But psychiatry has gradually developed the ambition of dealing with people in the aggregate. Starting with its role in soldier selection and placement, it expanded to include the categorizing and treatment of other groups—juvenile delinquents, prisoners, and other criminals, such as sexual deviants, and defective delinquents—and it developed techniques of assessing job applicants and techniques of education, in addition to other mass methods. Some psychiatrists came to believe they could be most effective when they dealt with people in groups, developing and applying principles broadly, and eventually they even came to believe that the most effective role of a psychiatrist was to make public policy or to influence those who make public policy.

Principles of mental hygiene were to be applied to the general population. Psychiatry, in its desire to deal with people in the mass, extended its borders to include not only the mentally ill and the social deviant but also normal people in stressful situations that might give rise to psychiatric symptoms (like the bereaved or the economically disadvantaged), and finally even to normal people experiencing stress that might lead to social maladjustment rather than to symptoms. After all, according to some psychiatrists, psy-

# COMMENTARY

MONDAY, MAY 30, 1983

SYLVIA STANARD

## Psychiatry ushers in 1984

Organized psychiatry has proposed to carry us forward to 1985 in a truly Orwellian fashion. The American Psychiatric Association earlier this month sponsored a seminar and press conference to propose a "Presidential Health Commission" to "advise on (a) screening of candidates for medical and emotional fitness, (b) choice of the leader's personal physician ... determination of which (health) information will be released to the public."

The author of this plan, Dr. Milton Greenblatt of UCLA, spent more than half his time at the seminar citing examples of earlier presidents who he claimed were impaired by mental or physical problems from properly performing their presidential tasks. Among presidents cited as having problems detrimental to the country were Franklin D. Roosevelt, John F. Kennedy and Abraham Lincoln. In fact, under questioning from the press, Greenblatt admitted that Lincoln probably would not have received an official seal of approval from such a commission as now is being sought. Greenblatt claims our 16th president was afflicted with mental illness.

Among the concerns to be eval-

uated by this commission would be the mental faculties of the prospective candidate, his spouse and family. Greenblatt ruminates about the "more subtle forms of impairment ... Betty Ford's mammary carcinoma, or her alcoholism; or Carter's brother's alcoholism, cantankerousness and impaired judgment, or Ted Kennedy's horrible experiences when he got thrown from an airplane. ..."

Although Billy Carter's antics were an embarrassment to his brother and a humorous form of entertainment to the rest of us I hardly think this could have been used to judge former President Carter "impaired."

The idea of forming such a commission which "should make known the critical importance of their work to the executive and legislative branches and to the public" ironically first appeared in a report from the Group for the Advancement of Psychiatry. That is exactly what such a group would do — advance psychiatry.

Already the American Medical Association and the American Psychiatric Association political action committees are two of the largest and most generous political voices in the Congress.

With billions going to psychiatrists from our tax monies, a strong and concerned lobby fights desperately to get even more money and prevent budget cuts. Lawsuits have even been filed by the APA to rescind some federal cuts. In an August 1981 survey published on the front page of the APA

newspaper, *Psychiatric News*, the nation's psychiatrists felt that the No. 1 priority of the APA lobby efforts should be toward increased insurance funding, with the influencing of legislation, courts and government actions as the third-most-important APA action. To give them the power to control the chief executive based on such subjective factors as alcoholic brothers or ulcers would give a vested-interest group veto power over electoral mandates for change.

The votes of millions of citizens could be vetoed by a psychiatric pronouncement of illness. Notably, several comments were made as to President Reagan's age being a factor to consider in this discussion.

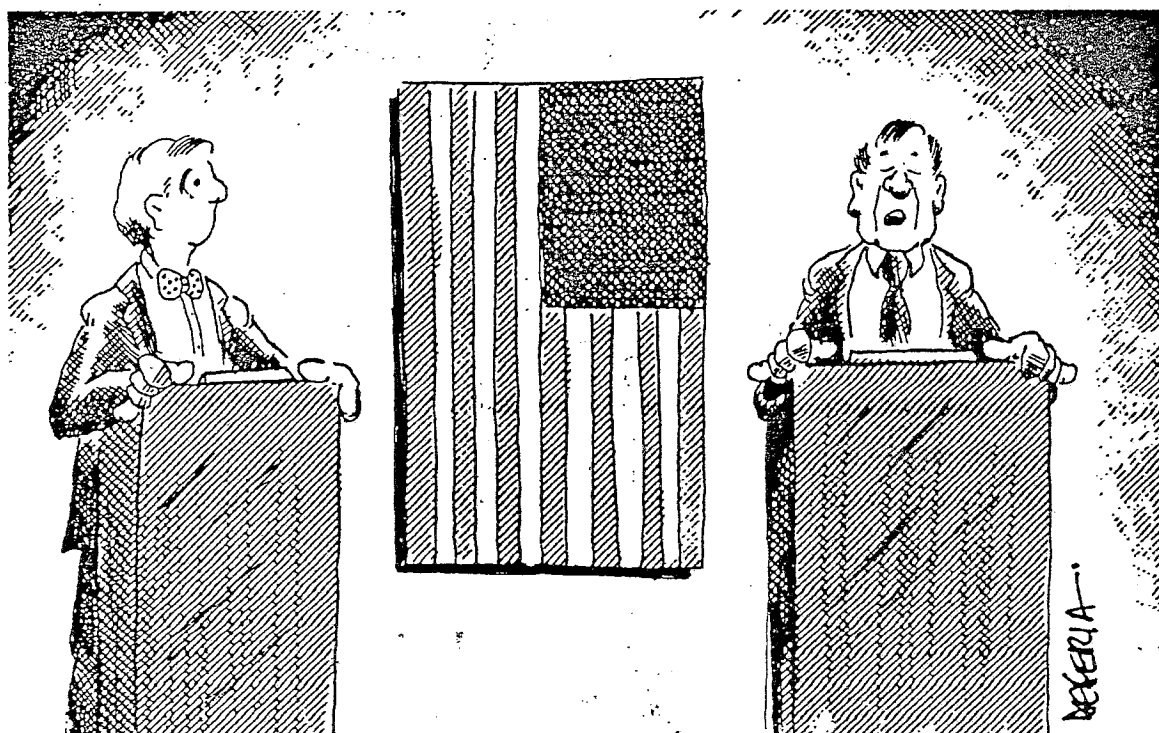
If such a problem were to evolve, our constitutionally prescribed impeachment processes are an adequate remedy.

A commission of health and psychiatric professionals who fear and rally against budget restraints in their own areas is an intolerable idea and if acted upon could put our country into the grip of a small elite group rather than the general electorate. Even without a negative health declaration, such a group would have strong blackmail potential to ensure their programs were supported by the reigning president.

Let us not forget that in the Soviet Union such professionals have been accused of using shock treatment, drugs and incarceration to control free thought.

Welcome George Orwell. It is 1984.

*Sylvia Stanard is director of public relations for the Citizens Commission on Human Rights. She has testified before Congress and governmental agencies on the rights of mental patients to humane treatment.*



"Let's talk issues: According to the APA, my opponent's socks don't match, and, my fellow Americans, he's a Taurus!"

12

POWER AND THE IMPAIRMENT OF GREAT LEADERS\*  
MILTON GREENBLATT, M.D.\*\*

"IS THE FATE OF THE WORLD--OUR FATE, IN THE HANDS OF SICK MEN?" THIS QUESTION STIRRED THE NATION AT THE TIME OF THE DEATH BY SUICIDE OF JAMES V. FORRESTAL, FIRST U.S. SECRETARY OF DEFENSE (1947-1949).<sup>(1)</sup> FORRESTAL WAS NOT THE FIRST HIGH OFFICIAL TO BECOME MENTALLY ILL, BUT HE IS THE HIGHEST RANKING AMERICAN OFFICIAL TO HAVE COMMITTED SUICIDE.

SLIDE

THERE IS A BODY OF EVIDENCE THAT SHOWS THAT ILLNESS AND EXHAUSTION AFFECTED GLOBAL WORLD DECISIONS MADE BY PRESIDENTS WOODROW WILSON AND FRANKLIN DELANO ROOSEVELT, AND THAT ULCERS, HYPERTENSION, CORONARY DISEASE, STROKE, AND MANY OTHER AILMENTS BESET WORLD LEADERS PERHAPS MORE THAN ORDINARY CITIZENS.

TODAY, AS A RESULT OF MASSIVE POPULATION GROWTH AND THE GENERATION OF INCREDIBLE WEAPONS OF DESTRUCTION, MORE POWER IS CONCENTRATED IN THE HANDS OF FEWER INDIVIDUALS THAN AT ANY OTHER TIME IN HISTORY. THE COMMANDER-IN-CHIEF IN WASHINGTON'S DAY COMMANDED AN ARMY OF THOUSANDS. TODAY, MILLIONS ARE AT THE BECK AND CALL OF THE PRESIDENT, AND THE BALANCE OF LIFE ON THIS PLANET DEPENDS ULTIMATELY ON

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\*\*Director, Neuropsychiatric Institute Hospital and Clinics, and Professor and Executive Vice Chairman, Department of Psychiatry and Biobehavioral Sciences, University of California, Los Angeles.

2.

HIS CONTROL AND USE OF NUCLEAR FORCE. EVEN MORE UNSETTLING IS THE FACT THAT DECISIONS, FOR EXAMPLE, ON LETTING LOOSE THE RETALIATORY MIGHT OF AMERICA IN RESPONSE TO A SOVIET CHALLENGE, MAY HAVE TO BE MADE WITHIN MINUTES. WHAT SECURITY DO WE HAVE THAT THE HAND THAT PRESSES THE BUTTON IS SANE AND STABLE?

HIPPOCRATES' MARVELOUS COMMENTARY, ABOUT 400 B.C., ON THE ROLE OF DOCTORS, <sup>(2)</sup> APPLIES UNIQUELY TODAY IN THIS LARGER CONTEXT:

LIFE IS SHORT,  
THE OCCASION IS INSTANT,  
EXPERIMENT PERILOUS,  
DECISION DIFFICULT.

IN 1969, HUGH L'ETANG <sup>(3)</sup> WROTE THAT IN THE PREVIOUS 60 YEARS, SIX OF AMERICA'S 10 PRESIDENTS AND 11 OF BRITAIN'S 13 PRIME MINISTERS HAD SUFFERED MORE OR LESS INCAPACITATING ILLNESS--SOME OF THEM AT CRUCIAL TIMES IN THEIR NATION'S HISTORY. THIS DOES NOT MINIMIZE THE PHYSICAL AND MENTAL FATIGUE THAT ACCOMPANIES THE ENORMOUS OVERLOAD OF WORK AND DECISION MAKING, WHICH, IN TURN, IMPAIRS VITALITY, MOOD, JUDGMENT, AND WISDOM.

INDEED, HOW SERIOUS A RISK THE PRESIDENCY OF THE UNITED STATES IS TO LIFE AND LIMB IS SHOWN BY THESE STATISTICS:



3.

OF 40 PRESIDENTS WHO HAVE SERVED IN THIS HIGH OFFICE IN OUR NATION'S HISTORY, FOUR HAVE BEEN ASSASSINATED (ABRAHAM LINCOLN, JAMES GARFIELD, WILLIAM MCKINLEY AND JOHN F. KENNEDY), SLIDE FOUR HAVE DIED IN OFFICE (WILLIAM HARRISON, ZACHARY TAYLOR, WARREN HARDING AND FRANKLIN DELANO ROOSEVELT), AND SEVEN HAVE BEEN THE OBJECT OF ASSASSINATION ATTEMPTS (ANDREW JACKSON, ABRAHAM LINCOLN, THEODORE ROOSEVELT, FRANKLIN DELANO ROOSEVELT, HARRY TRUMAN, GERALD FORD AND RONALD REAGAN). THE ODDS ARE BETTER THAN ONE IN FOUR (11 OUT OF 40), BASED ON PAST HISTORY, THAT ANY FUTURE PRESIDENT WILL DIE BEFORE THE END OF HIS TERM.\* ONE CAN IMAGINE THE DISRUPTION AND CONFUSION ATTENDING AN UNEXPECTED AND UNPREDICTED DEATH OF AN ALL-POWERFUL FIGURE ON THE ESTABLISHED PROCESSES OF GOVERNMENT, AND ON THE PEOPLE OF THE NATION. LAWS OF SUCCESSION THEN - GUIDE ENSUING SHIFTS IN THE PATTERNS OF POWER, BUT AS WE WILL INDICATE LATER, THESE TRANSITIONS ARE NOT NECESSARILY SMOOTH. ON THE OTHER HAND, IF THE LEADER IS VICTIM OF A DETERIORATING DISEASE, THERE IS GREAT OPPORTUNITY FOR POWER TO SHIFT TO UNCONSCIONABLE INDIVIDUALS, CLOSE TO THE LEADER, SOME OF WHOM MAY HAVE NO MANDATE AT ALL FROM THE ELECTORATE.

#### THE SUICIDE OF FORRESTAL

FORRESTAL, AS A CASE HISTORY, PROVIDES INSIGHT INTO THE STRESSES AND STRAINS OF HIGH OFFICE, HOW THE CAREERS OF CONSCIENTIOUS PUBLIC SERVANTS ARE DEPENDENT ON THE VAGARIES OF POLITICAL FORTUNES, AND HOW TOUCHY IS THE PROBLEM OF

4.

PROVIDING ADEQUATE CARE AND TREATMENT TO VERY IMPORTANT PERSONS. (4)

FORRESTAL'S QUEST FOR FAME AND POWER CAN BE RELATED TO FAMILIAR CHILDHOOD PROBLEMS: LACK OF LOVE AND UNDERSTANDING, LACK OF SELF-CONFIDENCE IN HIS YOUTH, AND A RESOLVE IN MORE MATURE YEARS TO WORK LONGER AND HARDER THAN ANYONE ELSE, TO PROVE HIMSELF BY BECOMING RICHER AND MORE POWERFUL THAN OTHER MEN. SHORT IN STATURE, AND UNCERTAIN OF HIS MASCULINITY, HE EXERCISED STRENUOUSLY, AND CULTIVATED "TOUGHNESS." TRAGICALLY UNHAPPY IN HIS MARRIAGE TO A WOMAN OF ANOTHER FAITH, HE FOUND DISTRACTION AND SOME SATISFACTION IN WORK, AMBITION, AND STUBBORN RESOLVE TO SUCCEED.

AFTER SERVING IN NAVAL AVIATION IN WORLD WAR I, FORRESTAL RESUMED AN ASSOCIATION WITH A NEW YORK CITY INVESTMENT FIRM, DILLON REED, WHERE HE MADE A FINE REPUTATION AS AN AGGRESSIVE ADMINISTRATOR, ADVANCING TO PRESIDENT OF THE COMPANY IN 1938. IN 1940 HE WAS NAMED ADMINISTRATIVE ASSISTANT TO PRESIDENT ROOSEVELT, AND THEN UNDERSECRETARY OF THE NAVY, RESPONSIBLE FOR READYING A PEACETIME NAVY FOR GLOBAL WAR. HE BECAME SECRETARY OF THE NAVY IN 1944, AND IN 1947 HE WAS APPOINTED FIRST SECRETARY OF DEFENSE. (5,6)

AS SECRETARY OF DEFENSE, FORRESTAL WAS EMBROILED IN CONTROVERSY. IN ADDITION TO THE DIFFICULTIES INHERENT IN

5.

MOULDING A UNIFIED SECURITY FORCE OUT OF THE THREE RELATIVELY INDEPENDENT ELEMENTS THAT HAD PREVAILED PREVIOUSLY, THERE WERE THE AMBITIOUS MANIPULATIONS AND END RUNS OF SYMINGTON, CHIEF OF THE NAVY, WHO SEEMED TO HAVE THE EAR OF TRUMAN AND SEVERAL IMPORTANT CONGRESSMEN. SYMINGTON WANTED TO BUILD A POWERFUL AIR FORCE WITHIN THE NAVY, CONTRARY TO FORRESTAL'S IDEAS OF A BALANCED STRIKING FORCE. TO FORRESTAL, THE SECURITY OF THE NATION, FOR WHICH HE FELT EMINENTLY RESPONSIBLE, REQUIRED GREATER EXPENDITURES THAN THE PRESIDENT AND THE BUDGET BUREAU WERE WILLING TO ALLOW. HE TOOK IT AS A STUNNING NATIONAL AND PERSONAL DEFEAT THAT THE NATION LACKED THE LEADERSHIP AND STAMINA NECESSARY FOR VICTORY IN THE COLD WAR. NEVERTHELESS, AS A MEMBER OF THE EXECUTIVE BRANCH, HE WAS FORCED, AGAINST HIS BETTER JUDGMENT, TO DEFEND THE ADMINISTRATION'S CEILING ON MILITARY EXPENDITURES. HE WORKED TOO HARD AND YET HE WAS LOSING GROUND IN THE BATTLE TO PREPARE THE NATION AGAINST SOVIET AGGRESSION. HE WAS OBSESSED WITH THE IDEA THAT THE SOVIETS WERE OUT "TO GET US," AND THAT DISASTER WAS IMMINENT.

IN THE SPRING OF 1948 SIGNS OF ILLNESS INCLUDED LOSS OF APPETITE AND WEIGHT, INSOMNIA, FATIGUE, AND DIGESTIVE DISORDERS. HE TENDED TO WANDER AWAY FROM A SUBJECT, TO POSTPONE DECISIONS, INDULGE IN LITTLE NERVOUS HABITS. HE BECAME FRETFUL, WORRIED AND SUSPICIOUS, AND FORGETFUL. HE BEGAN TO BELIEVE THAT HE WAS MARKED FOR REPLACEMENT BY

6.

"HEADHUNTERS" HIGH IN THE TRUMAN ADMINISTRATION. WHEN, AFTER THE ELECTION IN NOVEMBER, WITH THE UNEXPECTED VICTORY OF TRUMAN, SECRETARY OF STATE MARSHALL WAS REPLACED BY ACHESON, WHOM HE DISLIKED, HIS FEARS WERE COMPOUNDED. IN JANUARY HE LEARNED THAT JOHNSON WOULD REPLACE HIM AS SECRETARY OF DEFENSE, AND IN MARCH, IN A CONVERSATION WITH TRUMAN, HE WAS ASKED TO SUBMIT AN IMMEDIATE LETTER OF RESIGNATION. QUICKLY HE WAS STRIPPED OF ALL APPURTENANCES AND TRAPPINGS OF POWER. HE WAS DAZED, AGITATED AND DEPRESSED. HE SPOKE OF A WHITE HOUSE CONSPIRACY AGAINST HIM. DURING A SHORT VACATION IN FLORIDA, HE WAS DESPONDENT, AND THOUGHT THE METAL SOCKETS IN THE SAND THAT WERE INTENDED TO HOLD BEACH UMBRELLAS WERE WIRED BY THE RUSSIANS.

THE REST IS PSYCHIATRIC HISTORY. AFTER CONSULTATION WITH MENNINGER, AND RAINES OF THE NAVY, HE WAS ADMITTED TO THE NAVAL HOSPITAL IN BETHESDA ON THE 16TH FLOOR. HE WAS TREATED WITH NARCOSIS, AND THEN FOR FOUR WEEKS WITH SUBSHOCK INSULIN. ON A WEEKEND, WHEN IT WAS THOUGHT HE WAS IMPROVING, HE LEFT HIS ROOM, CROSSED OVER TO THE CORRIDOR INTO THE DIET KITCHEN, TIED HIS SASH TO A RADIATOR, THE OTHER END TO HIS NECK, AND JUMPED FROM THE WINDOW. ?KARL

IT IS NOT MY INTEREST TO COMMENT UPON THE PSYCHIATRIC TREATMENT OF WHAT WAS DIAGNOSED AS "INVOLUTIONAL MELANCHOLIA" IN 1949. HOWEVER, WE MUST POINT OUT THE EXTRAORDINARY

7.

PRESSURES THAT BESET MEN IN HIGH POLITICAL OFFICE, WHO, IN ADDITION TO FINDING THEMSELVES IN THE MIDDLE OF THE PERPETUAL FIGHT BETWEEN THE TWO PARTIES, ARE ALSO SUBJECT TO UNBRIDLED CRITICISM IN THE PRESS AND IN THE MEDIA WHENEVER MILITARY POLICY IS INVOLVED. THE CONGRESSIONAL RECORD, HOUSE OF REPRESENTATIVES, 1949, CARRIES THIS NOTE: (7)

"THIS PUBLIC OFFICIAL, MORE THAN ANY MAN OF OUR TIME, WAS SUBJECTED TO A CAMPAIGN OF ABUSE AND VILIFICATION, THE LIKE OF WHICH I HAVE NEVER HEARD.....IN THIS CAPITAL OF THE UNITED STATES THE MOST DEVASTATING WEAPONS USED--MORE DEVASTATING THAN MACHINE GUNS OR MORTARS, OR THE OTHER WEAPONS OF BATTLE--ARE THE CRUEL WEAPONS OF DISTORTED WORDS, AND THEY WERE USED AGAINST THIS GREAT MAN IN A MOST UNFAIR, UNCHARITABLE AND UNTHINKABLE MANNER."

#### THE MYTHOLOGY OF INVULNERABILITY

FORRESTAL'S CASE ALSO HIGHLIGHTS TWO OTHER ASPECTS OF LIFE AT THE PINNACLE OF POWER. ONE IS THE MYTHOLOGY OF THE INVULNERABILITY OF MEN OF HIGH STANDING TO SERIOUS ILLNESS THAT MAY RESULT IN IMPAIRMENT, DETERIORATION OR FAILURE. YET, A HIGH OFFICIAL TO WHOM WE ENTRUST OUR LIVES AND OUR SACRED HONOR MAY BECOME FATIGUED OR EXHAUSTED IN OUR SERVICE,



8.

BUT NOT STRUCK DOWN BY DISEASE WHICH MIGHT RENDER HIM COMPLETELY INCAPABLE OF LOOKING AFTER OUR WELFARE. WE MAKE OF THEM SUPERMEN. WE MINIMIZE THEIR BURDENS, AND WE MAXIMIZE THEIR "CHARISMA." THIS GOES ON SIDE BY SIDE WITH OUR ASSUMED PREROGATIVE TO CRITICIZE THEM UNMERCILESSLY IF THEY INFLAME OUR SENSITIVITIES IN ANY WAY. NEVERTHELESS, THE NET RESULT IS TO ENHANCE THE PROTECTIVE TENDENCIES OF THOSE WHO SURROUND THE EMINENT FIGURE, TO SHIELD HIM FROM SCRUTINY, AND TO COVER UP HIS ILLNESS WHEN THAT THREATENS EITHER HIS ABILITY TO STAY ON THE JOB, THEIR STANDING IN THE WORLD OF POWER, OR THE NATION'S EQUANIMITY.

ALTHOUGH SOME FRIENDS AND ASSOCIATES SUSPECTED THAT FORRESTAL WAS ILL, THEY DID NOT INTERVENE TO RECOMMEND PSYCHIATRIC TREATMENT. EVEN WHEN THE PRESIDENT MUST HAVE BEEN AWARE THAT HIS SECRETARY OF DEFENSE WAS EXPERIENCING A BREAKDOWN, HE DID NOTHING MORE THAN RECOMMEND A VACATION FOLLOWED BY A FACT-FINDING TRIP AROUND THE WORLD. WHEN PSYCHIATRIC SYMPTOMS COULD NOT BE DENIED, OFFICIALS RECOMMENDED A TRIP TO FLORIDA, WHERE SUN, GOLF, SWIMMING AND REST WERE EXPECTED TO MAKE HIM WELL. WE PSYCHIATRISTS ARE AWARE OF THE DIFFICULTIES INVOLVED IN GETTING RELUCTANT PATIENTS TO SEEK TREATMENT; THESE DIFFICULTIES ARE COMPOUNDED IN THE CASE OF THE V.I.P. FORRESTAL'S V.I.P. STATUS WAS ALSO CLAIMED TO BE RESPONSIBLE FOR HIS BEING ASSIGNED TO A ROOM ON THE 16TH FLOOR, DESPITE THE PROTESTS OF HIS PSYCHIATRIST,

9.

DR. RAINES, WHO WOULD RATHER HAVE HAD HIM CLOSELY WATCHED IN MORE SUITABLE QUARTERS ON A LOWER FLOOR.

PART OF THE REASON FOR THE WITHHOLDING OF INFORMATION REGARDING FORRESTAL'S MENTAL STATUS FROM THE PUBLIC WAS THE FEAR THAT THE RUSSIANS WOULD MAKE MAXIMUM PROPAGANDA USE OF THE INFORMATION, TO THE EMBARRASSMENT OF OUR ADMINISTRATION. MENTAL ILLNESS IN A HIGH OFFICIAL THUS BECAME ONE OF THE CARDS PLAYED IN NATIONAL POLICY DURING THE COLD WAR.

THE "COVER UP" OF ILLNESS:  
WILSON AND ROOSEVELT

THE "COVER UP" OF THE ILLNESSES OF SOME V.I.P.s HAS BEEN A NATIONAL SCANDAL. PERHAPS THE TWO MOST REMARKABLE CASES ARE THOSE OF WOODROW WILSON AND FRANKLIN DELANO ROOSEVELT.

(8,9,10)  
WOODROW WILSON CAME FROM A FAMILY OF SCHOLARS, MINISTERS AND EDITORS. HE WAS INORDINATELY ATTACHED TO HIS MINISTER FATHER, WHO SUPPORTED WOODROW BUT WAS ALSO CRITICAL, AND SET FOR HIM VERY HIGH EXPECTATIONS. AS A YOUNGSTER, WOODROW WAS FRAIL, HE WAS LATE TO READ, AND HE WAS KEPT OUT OF SPORTS. HE DROPPED OUT OF DAVIDSON COLLEGE AT AGE 17 BECAUSE OF "INDIGESTION." HE LEFT THE UNIVERSITY OF VIRGINIA LAW SCHOOL BECAUSE OF RESPIRATORY INFECTION, STAYING HOME FOR ONE AND A HALF YEARS. HOWEVER, HE WAS A "SMASH" AS A

LECTURER AT PRINCETON, WROTE EXCELLENT BOOKS ON THE ANALYSIS OF GOVERNMENT, AND BECAME PRESIDENT OF PRINCETON, WHERE, MIXED IN WITH HIS LECTURING AND WRITING OF BOOKS, HE SUFFERED DIGESTIVE DISORDERS, HEADACHES, NEURITIS, AND "WRITER'S CRAMP." IN 1906, HE EXPERIENCED SUDDEN BLINDNESS IN HIS LEFT EYE, AND WEAKNESS IN HIS RIGHT ARM. IN 1912, AS PRESIDENT OF THE NATION, HE WAS SEEN BY WEIR MITCHELL FOR INDIGESTION, NEURITIS AND SICK HEADACHES. AT THAT TIME, HE USED A STOMACH TUBE DAILY TO TREAT HIS INDIGESTION.

IN 1917, HE BEGAN HIS BATTLE FOR A LEAGUE OF NATIONS, BUT WAS STRONGLY OPPOSED BY HENRY CABOT LODGE OF MASSACHUSETTS AND OTHER INFLUENTIAL CONGRESSMEN. IN 1919, IT IS SAID HE HAD A SLIGHT STROKE, BECAME PARANOID ABOUT SPIES, AND IT APPEARED HIS MIND WAS LESS INCISIVE.

THE MOST CRITICAL EVENT FOR THE COUNTRY, HOWEVER, OCCURRED IN OCTOBER 1919. WHILE ON TOUR OF THE NATION TO WIN SUPPORT FOR THE LEAGUE, HE SUFFERED A SEVERE LEFT HEMIPLEGIA, WHICH INCAPACITATED HIM FOR THE LAST 18 MONTHS OF HIS PRESIDENCY AND UNTIL HIS DEATH THREE YEARS LATER. THE AFFAIRS OF STATE WERE MANAGED LARGELY BY HIS SECOND WIFE, WHOSE PREPARATION FOR THE JOB INCLUDED ONLY 12 YEARS OF SCHOOLING, AND BY HIS PHYSICIAN, DR. GRAYSON. WILSON WAS INCOMPETENT, UNSTABLE, OBSTINATE, SHOWED POOR JUDGMENT, COULD WORK ONLY ONE TO TWO HOURS A DAY, BUT, NEVERTHELESS, WANTED TO RUN FOR A THIRD TERM.

11.

THERE WERE CONSCIENTIOUS AND VIGOROUS ATTEMPTS TO KEEP HIS CONDITION SECRET, AND A CONGRESSIONAL INVESTIGATION OF HIS STATUS, PROMPTED BY RUMORS FROM THE WHITE HOUSE, WAS BLUNTED BY HIS WIFE AND PHYSICIAN. THEY PROPPED HIM UP, COVERED HIS PARALYZED ARM, BRIEFED HIM ON SOME OF THE AFFAIRS OF THE DAY, AND CUT THE INTERVIEW SHORT. THE COMMITTEE THEN RETURNED A FAVORABLE REPORT AS TO HIS PHYSICAL STATUS TO THE CONGRESS.

PERHAPS THE NATION WAS BLESSED AT THIS PARTICULAR TIME THAT NO GREAT INTERNATIONAL EMERGENCY WAS BREWING; HOWEVER, WILSON'S OBDURACY, INFLEXIBILITY, AND INABILITY TO NEGOTIATE WITH THE OPPOSITION HAS BEEN WIDELY CREDITED WITH CAUSING THE DEMISE OF THE LEAGUE OF NATIONS CONCEPT AND, THUS, THE POSTPONEMENT OF A WORLD COURT FOR DECADES.

FRANKLIN DELANO ROOSEVELT, ON THE OTHER HAND, MAY HAVE REPRESENTED US POORLY IN THAT HISTORIC CONFERENCE IN YALTA, FEBRUARY 1945, WHEN HE, CHURCHILL AND STALIN MET, MORE OR LESS TO CARVE UP THE WORLD INTO SPHERES OF INFLUENCE. FOR SEVERAL YEARS ROOSEVELT HAD SUFFERED DIZZY SPELLS, EPISODES OF CONGESTIVE FAILURE, POSSIBLE LITTLE STROKES, LOSS OF WEIGHT, SEVERE HYPERTENSION (230/120), ADVANCED ARTERIOSCLEROSIS, BRONCHITIS, FATIGUE, AND PHYSICAL DETERIORATION.

AT HIS LAST INAUGURAL ON JANUARY 1945, HIS SON, JAMES ROOSEVELT, HIS SECRETARY OF STATE, EDWARD STETTINIUS, AND

12.

LORD MORAN, CHURCHILL'S PHYSICIAN, ALL REMARKED ON HIS TRAGIC CONDITION. JAMES ROOSEVELT SAID, "THE MOMENT I SAW FATHER, I KNEW THAT SOMETHING WAS TERRIBLY WRONG WITH HIM. HE LOOKED AWFUL, AND REGARDLESS OF WHAT THE DOCTORS SAID, I KNEW IN MY HEART THAT HIS DAYS WERE NUMBERED."

STETTINIUS: "THAT DAY HE SEEMED TO TREMBLE ALL OVER. IT WAS NOT JUST HIS HANDS THAT SHOOK BUT HIS WHOLE BODY AS WELL. IT SEEMED TO ME THAT SOME KIND OF DETERIORATION HAD TAKEN PLACE BETWEEN THE MIDDLE OF DECEMBER AND HIS INAUGURATION ON JANUARY 20." (11)

LORD MORAN: "I GIVE HIM ONLY A FEW MONTHS TO LIVE." (12)

AT YALTA, DID ROOSEVELT'S FATIGUE, FRAILTY AND WEARINESS COST THE WEST DEARLY? ROOSEVELT WAS IN THE ADVANCED STAGES OF ARTERIOSCLEROSIS. ON THE FOURTH DAY OF THE CONFERENCE, HE SHOWED PULSUS ALTERNANS. HE WAS IRASCIBLE, HAD DIFFICULTY CONCENTRATING, FELL INTO TRAPS SET BY STALIN CALCULATED TO PIT ROOSEVELT AGAINST CHURCHILL. (13) AFTER THAT CONFERENCE, ALL HOPE FOR FREE ELECTIONS IN CZECHOSLOVAKIA, ROMANIA, AND POLAND WERE DASHED, AND TEN WEEKS LATER ROOSEVELT DIED AT WARM SPRINGS, GEORGIA, OF A CEREBRAL HEMMORHAGE.

THERE IS SOME QUESTION WHETHER ROSS MCINTYRE, THE PRESIDENT'S PHYSICIAN, WHO WAS MAINLY AN OTOLARYNGOLOGIST



13.

AND OPHTHALMOLOGIST, WAS COMPETENT TO HANDLE THE PRESIDENT'S NUMEROUS ILLNESSES, PARTICULARLY HIS CARDIOVASCULAR DISEASE. ON ONE OCCASION, HE ALLOWED THE PRESIDENT TO BLEED FROM HEMORRHOIDS DOWN TO 4.5 <sup>OF HEMOGLOBIN</sup> GRAMS. AND THE PRESIDENT RECEIVED LITTLE TREATMENT FOR CONGESTIVE FAILURE FOR TWO YEARS PRIOR TO THE SPRING OF 1944.

THERE IS NO QUESTION, HOWEVER, THAT MCINTYRE FAILED TO REVEAL THE GRAVITY OF THE PRESIDENT'S ILLNESSES TO THE APPROPRIATE PEOPLE, AND HE EVEN FAILED TO KEEP ELEANOR ROOSEVELT APPRISED OF THE SEVERITY OF HER HUSBAND'S CONDITION. AT THE TIME OF THE 1944 ELECTIONS, MCINTYRE SAID, "THE PRESIDENT'S HEALTH IS EXCELLENT. I CAN SAY THAT UNEQUIVOCALLY." AS A RESULT, A MOST DANGEROUS HIATUS OCCURRED BETWEEN ROOSEVELT'S FAILING POWERS AND TRUMAN'S ULTIMATE ASSUMPTION OF RESPONSIBILITY. DURING THAT PERIOD THE STATE DEPARTMENT AND THE MILITARY RECEIVED NO GUIDANCE. IS IT FAIR, WE ASK, TO THE AMERICAN PEOPLE THAT THE PRESIDENT'S HEALTH CONTINUE TO BE ENTRUSTED PRIMARILY TO A PHYSICIAN OF HIS OWN CHOOSING, OFTEN A FAMILY FRIEND, TIED TO THE PRESIDENT IN BONDS OF LOYALTY THAT MAY OVERSHADOW HIS RESPONSIBILITY TO THE NATION?

OTHER PRESIDENTIAL DISABILITIES:  
EISENHOWER, KENNEDY, AND NIXON

MORE RECENT PRESIDENTS WHOSE HEALTH CONSTITUTED PROBLEMS BOTH FOR THEM AND THE NATION INCLUDE EISENHOWER, WHO WAS INCAPACITATED ON THREE DIFFERENT OCCASIONS: (1) CORONARY

14.

THROMBOSIS IN 1955, AT AGE 65, (2) REGIONAL ILEITIS, SIX MONTHS LATER, NECESSITATING SURGERY, AND (3) A STROKE IN 1957 THAT PRODUCED PANIC IN THE STOCK MARKET.\* ALTHOUGH HE RETURNED TO WORK IN A MONTH, HE ADMITTED, IN HIS BIOGRAPHY, <sup>(14)</sup> "MY MEMORY FOR WORDS WAS NOT WHAT IT HAD BEEN."

KENNEDY, AS IS WELL KNOWN, SUFFERED FROM ADDISON'S DISEASE, AND <sup>WAS</sup> STABILIZED BY DOCA (DESOXYCORTICOSTERONE ACETATE). HE ALSO HAD A VERY BAD BACK, NECESSITATING OPERATIONS THAT ALMOST KILLED HIM; AND THROUGHOUT HIS THOUSAND DAYS, HIS BROTHER, BOB, REPORTED THAT HE SUFFERED PAIN DAILY. NEVERTHELESS, KENNEDY PERFORMED WELL DURING THE CUBAN MISSILE CRISIS OF 1962, A TIME THAT TRULY TRIED MEN'S SOULS. ROBERT KENNEDY'S DESCRIPTION, IN HIS LITTLE BOOK, "THIRTEEN DAYS," <sup>(15)</sup> GIVES PENETRATING INSIGHT INTO THE TENSIONS OF THOSE TIMES AS IT AFFECTED THE MEN IN WHOSE HANDS, IT THEN SEEMED, RESTED THE FATE OF THE WORLD.

EISENHOWER AND KENNEDY'S DISABILITIES WERE GROSS AND UNMISTAKABLE. BUT WHAT ABOUT THE LESSER AND MORE SUBTLE FORMS OF IMPAIRMENT, THE SLOW RECUPERATION FROM A HEAVY FLU, THE Milder DEPRESSIONS THAT MAKE ORDINARY BURDENS OVERWHELMING, THE LOSSES AND TRAGEDIES WITHIN THE FAMILY, SUCH AS BETTY FORD'S MAMMARY CARCINOMA, OR HER ALCOHOLISM; OR CARTER'S BROTHER'S ALCOHOLISM, CANTANKEROUSNESS, AND

15.

IMPAIRED JUDGMENT, OR TED KENNEDY'S HORRIBLE EXPERIENCES WHEN HE GOT THROWN FROM AN AIRPLANE, OR WHEN HIS SON REQUIRED A LEG AMPUTATION FOR BONE CANCER.

PERHAPS ONE OF THE MOST STRIKING EXAMPLES OF EROSION OF JUDGMENT AND POLITICAL EFFECTIVENESS IS THAT OF NIXON, WHO IS WIDELY REGARDED BY COMMENTATORS AND BY BIOGRAPHERS (16.16A) AS HAVING BEEN THE VICTIM OF A CHARACTER DISORDER. HIS PATHOLOGY IS TRACED BY HIS BIOGRAPHERS TO EXTREME POVERTY IN YOUTH, A FATHER WHO WAS MEAN AND CRITICAL, A MOTHER WHO ABSENTED HERSELF FROM THE FAMILY TO BECOME A SCRUBWOMAN AND COOK IN AN ARIZONA SANITARIUM TO PAY FOR HIS BROTHER HAROLD'S CARE AND TREATMENT FOR TUBERCULOSIS. AS A COMPENSATION, HE DEVELOPED AN EXTRAORDINARY PASSION FOR POWER, TOGETHER WITH A GROWING SUSPICION THAT MANY IN GOVERNMENT BORE HIM GREAT MALICE AND ILLWILL. NIXON IS PAINTED AS HAVING A "FLAWED CHARACTER," A PARANOID OUTLOOK ON LIFE. OTHERS SEE HIM AS THE ARCH POLITICIAN WHO WAS SIMPLY UNFORTUNATE ENOUGH TO BE CAUGHT AT HIS TRADE. STILL OTHERS PREFER THE SIMPLE DIAGNOSIS, "CROOK."

NIXON'S CASE DEMONSTRATES HOW QUIRKS OF CHARACTER, COUPLED WITH POSSESSION OF GREAT POWER, CAN THREATEN A NATION'S COURSE. AT THE TIME WHEN THE AMERICAN PUBLIC LOST FAITH IN NIXON, AND CONGRESS WAS MOVING TOWARDS IMPEACHMENT, NIXON HIMSELF WAS DISTRAUGHT AND UNSTABLE. SHOULD WE THEN

16.

HAVE TRUSTED HIM WITH PRESIDENTIAL CONTROL OF THE NUCLEAR BUTTON? IT IS ENTIRELY POSSIBLE THAT OUR RISKS OVER THE LONG RUN ARE GREATER TRUSTING OURSELVES TO INDIVIDUALS OF WARPED PERSONALITY THAN TO PERSONS WHO HAVE MORE OBVIOUS PHYSICAL AND MENTAL BREAKDOWNS.

#### WHY ARE THE ILLNESSES OF LEADERS HIDDEN?

AS WE HAVE INDICATED ABOVE, ONE IMPORTANT FACTOR ENCOURAGING SECRECY IS THE MYTH OF INVULNERABILITY SURROUNDING THE LEADER. CAMPAIGN LITERATURE BUILDS UP AN IMAGE OF A STRONG MAN, DEEPLY DEDICATED TO THE WELFARE OF THE PEOPLE, WHO OFFERS THE VOTER MUCH MORE THAN HIS COMPETITORS. HE IS CHARISMATIC, ENDOWED WITH "EXTRA GLANDS." REPORTERS WHO FOLLOW HIM ON THE CAMPAIGN TRAIL FALL BY THE WAYSIDE, WHILE THE WHITE KNIGHT DEMONSTRATES ENDLESS STAMINA AND RESILIENCE. THE PUBLIC NEEDS AN ALL-POWERFUL, ALL-KNOWING FATHER FIGURE WHO CARES. FATHER SIMPLY CANNOT BE MADE OF COMMON CLAY.

IF THE LEADER BECOMES ILL, AND THE PUBLIC KNOWS ABOUT IT, HE MAY LOSE THE FAITH OF HIS FOLLOWERS. HE CANNOT FUNCTION AS EFFECTIVELY, HIS POLITICAL "CLOUT" IS DIMINISHED, HIS PARTY'S STRENGTH SAPPED, THE POWER OF HIS HENCHMEN BROKEN, AND HIS CHANCES FOR REELECTION COLLAPSE.

FURTHER, IT IS ARGUED, KNOWLEDGE OF HIS ILLNESS AND DISABILITY WILL CAUSE CONSTERNATION IN THE NATION, PANIC IN

17.

THE ECONOMY, AND A HOST OF SECONDARY UNWANTED EFFECTS INCONSISTENT WITH THE REALITIES. IF IT IS EMOTIONAL ILLNESS, THE PUBLIC IS ILL-PREPARED TO LOOK UPON IT RATIONALLY AND IS INCLINED TO VIEW MENTAL DISORDER AS CONNECTED TO MORAL DEGENERACY.

ALL OF THIS WILL HARDLY HELP TO GET THE PATIENT WELL.

FINALLY, WHEN ALL ELSE FAILS, WITHHOLDING INFORMATION ABOUT THE LEADER'S INCAPACITIES MAY BE RATIONALIZED AS SERVING THE NATIONAL SECURITY.

IT SHOULD BE NOTED, TO BALANCE THE PICTURE, THAT DURING EISENHOWER'S HEART ATTACK, WITH HIS PERMISSION, THERE WAS ESSENTIALLY FULL REPORT OF HIS MEDICAL CONDITION ON A DAILY BASIS. EVEN BOWEL MOVEMENTS, RECTAL TEMPERATURE, AND VOMITING EPISODE BECAME PUBLIC KNOWLEDGE. THE "CONSPIRACY OF SILENCE" OF THE PREVIOUS REGIMES WAS OVER. ALTHOUGH IKE, MINDFUL OF THE WILSON COVER UP, HAD GIVEN PERMISSION TO HIS DOCTORS TO INFORM THE PUBLIC, HE WAS A LITTLE TAKEN ABACK WHEN HE LEARNED LATER HOW INTIMATE HAD BEEN THE DETAILS OF DISCLOSURE.

#### ARE THE LINES OF SUCCESSION CLEAR?\*

BEFORE EISENHOWER'S CORONARY, HE HAD NOTED TIGHTNESS OF THE CHEST, DYSPNEA, PALPITATION AND PERSPIRATION WHEN GOING UP STAIRS. AS A RESULT, "LETTERS OF INTENT" PASSED BETWEEN EISENHOWER AND VICE PRESIDENT NIXON REGARDING SUCCESSION IN



18.

THE CASE OF EISENHOWER'S DISABILITY. WHILE IN THE HOSPITAL IN ACUTE CORONARY CASE, EISENHOWER MADE IT CLEAR HE WANTED NIXON TO CARRY ON THE AFFAIRS OF GOVERNMENT. MAJOR ISSUES WERE TO BE BROUGHT TO HIM FOR DECISION, PRESUMABLY WHEN HIS DOCTORS AGREED THAT THIS WAS NOT CONTRARY TO THE BEST INTERESTS OF THE PATIENT.

HOWEVER, IT IS NOT CERTAIN THAT DURING A CRISIS THE PRINCIPAL OFFICERS IN GOVERNMENT AGREE ON THE LINES OF SUCCESSION. WHEN REAGAN WAS LAID LOW BY THE ALLEGED ASSASSIN'S BULLET, AND VICE PRESIDENT BUSH WAS AWAY FROM WASHINGTON, THE NATION WAS TREATED TO A FIASCO IN WHICH ALEXANDER HAIG, ON NATIONAL TELEVISION, ANNOUNCED THAT "I AM IN CHARGE HERE." WEINBERGER, WHO KNEW BETTER, CORRECTLY BELIEVED THAT AUTHORITY PASSED FROM PRESIDENT TO VICE PRESIDENT AND THEN TO SPEAKER OF THE HOUSE.

CONGRESS HAS WRESTLED WITH THE PROBLEMS OF SUCCESSION FOR MANY YEARS. ORIGINALLY THE CONSTITUTION ALLOWED FOR THE VICE PRESIDENT TO SUCCEED THE PRESIDENT "IN CASE OF... DEATH, RESIGNATION, OR INABILITY TO DISCHARGE HIS DUTIES." IN 1886, AN ACT PROVIDED THAT SUCCESSION SHOULD DEVOLVE UPON DEPARTMENTAL SECRETARIES AFTER DEATH OR DISABILITY OF BOTH PRESIDENT AND VICE PRESIDENT.

IN 1947 AN ACT PROVIDED THAT THE SPEAKER SHOULD PRECEDE THE PRESIDENT PRO TEMPORE OF THE SENATE IN THE LINE OF SUCCESSION.

IN 1967, IN REACTION TO THE EISENHOWER CRISIS, MORE ELABORATE PROCEDURES WERE ESTABLISHED FOR SUCCESSION. HOWEVER, INsofar AS THE INITIATIVE OF THE PRESIDENT IS REQUIRED TO INDICATE HIS OWN DISABILITY, OR IN THE CASE THAT THE VICE PRESIDENT AND CONGRESS TAKE INITIATIVE OVER THAT OF THE PRESIDENT, SUBSEQUENT DELAYS CAN OCCUR WHEREIN THE COUNTRY COULD BE AT RISK, ESPECIALLY IN TIMES OF CRISIS.

IN THE CASE OF A STANDOFF IN WHICH THE PRESIDENT, AFTER REMOVAL FROM OFFICE, DECLARES HE IS NOW FIT, AND THE CONGRESS HAS TO MAKE THE FINAL DECISION, A ONE-THIRD VOTE IN EITHER HOUSE, STANDING BY THE PRESIDENT, PUTS HIM BACK IN OFFICE.

IN OTHER WORDS, UNDER THESE CIRCUMSTANCES, 34 SENATORS, OUT OF MORE THAN 500 CONGRESSMEN, COULD DETERMINE THE PRESIDENT'S FATE AND, THUS, THE FATE OF THE NATION.

IN THE EVENT THAT A PRESIDENT'S DISABILITY IS DIFFICULT TO DIAGNOSE, OR HE MANIFESTS CHARACTER TRAITS OR MINOR AND TRANSIENT EMOTIONAL INSTABILITY INIMICAL TO THE SAFETY OF THE NATION, OR HIS DISABILITIES ARE COVERED UP, HOW THEN IS THE NATION PROTECTED?

IN A MILITARY EMERGENCY, WITH PRESIDENT AND VICE PRESIDENT CUT OFF, THE RESPONSIBILITY DEVOLVES UPON THE SECRETARY OF DEFENSE.

WHERE DOES THE POWER FLOW?

IN HIS BOOK, "THE SHADOW PRESIDENTS," MICHAEL MEDVED<sup>(17)</sup> GIVES US AN INTIMATE GLIMPSE INTO THE INTENSE RELATIONSHIPS THAT GROW UP BETWEEN THE PRESIDENTS AND THEIR PRINCIPAL ASSISTANTS. THESE ASSISTANTS MAY BE ELECTED OFFICERS, BUT PERHAPS MORE OFTEN THEY ARE FRIENDS AND ASSOCIATES WHO HAVE NOT BEEN GIVEN FORMAL SANCTION BY THE VOTERS FOR THE POWER THEY YIELD.

HOW MUCH OF THE COMPLEX BUSINESS OF THE WHITE HOUSE IS ACTUALLY TRANSACTED BY THESE "SHADOW PRESIDENTS?" DURING THE WATERGATE PROCEEDINGS WE LEARNED THAT H. R. HALDEMAN WIELDED AN INTIMIDATING AUTHORITY OVER ALMOST EVERYONE EXCEPT THE PRESIDENT. HE SAID OF HIMSELF, "I AM THE PRESIDENT'S SON OF A BITCH." HE AND ERLICHMAN, BETWEEN THEM, HANDLED MOST OF THE FOREIGN AND DOMESTIC BUSINESS OF THE NATION, WITH THE POWER TO SELECT WHICH ITEMS SHOULD COME TO THE PRESIDENT'S ATTENTION. WITH THE OVERWHELMING BURDENS OF INFORMATION PROCESSING, DECISION MAKING, MEETING AND CONFERRING

WITH POLITICIANS AND PEOPLE OF INFLUENCE, ENTERTAINING FOREIGN DIGNITARIES, AND ATTENDING HONORIFIC FUNCTIONS, IT IS A NECESSITY OF OFFICE THAT THE WORK BE DIVIDED AND ASSIGNED TO INDIVIDUALS THE LEADER FEELS HE CAN TRUST.

WILSON HAD HIS COLONEL HOUSE. THEY WERE VERY CLOSE TO EACH OTHER FOR AT LEAST SEVEN YEARS. HOUSE WAS, IN EFFECT, HIS ALTER EGO, ASSIGNED TO IMPORTANT BUSINESS BOTH HERE AND ABROAD. IT WAS ONLY AFTER WILSON'S SECOND WIFE BEGAN TO CULTIVATE SUSPICIONS IN THAT RELATIONSHIP THAT THE WILSON-HOUSE SPLIT TOOK PLACE. DURING WILSON'S INCAPACITATING STROKE IT WAS MRS. WILSON, HIS PHYSICIAN, AND A FEW OTHERS WHO CONTROLLED THE BUSINESS OF GOVERNMENT. DECISIONS WERE NOT MADE BY THE PERSONS WHOM THE VOTERS HAD EMPOWERED TO MAKE THE DECISIONS.

FRANKLIN D. ROOSEVELT HAD HIS HARRY HOPKINS; JOHN F. KENNEDY HAD HIS BROTHERS, AND HIS IRISH MAFIA, AND TED SORSENSEN. EISENHOWER MADE SHERMAN ADAMS HIS CHIEF OF STAFF TO FUNCTION VERY MUCH IN THE ARMY MODEL. WHETHER THE POWER IS DELEGATED TO A FEW OR TO A CIRCLE OF INTIMATES, IT WOULD APPEAR FROM MEDVED'S RESEARCH THAT NO PRESIDENT IS WITHOUT THESE LIEUTENANTS, AND, INDEED, THE SUCCESS OF HIS ADMINISTRATION DEPENDS POWERFULLY ON THE ABILITIES OF THESE MEN (OR WOMEN) TO DO WHAT HE CANNOT DO. WHILE SOME OF THESE HENCHMEN HAVE SERVED THEIR PRESIDENTS WELL, OTHERS HAVE LENT THEIR HAND

TO INEFFICIENCY AND EVEN CORRUPTION, AS IN THE ADMINISTRATIONS OF U. S. GRANT AND WARREN G. HARDING.

IT IS IMPORTANT TO NOTE THAT THE PRESIDENT'S PHYSICIAN MAY HAVE A HIGHLY STRATEGIC PLACE IN HIS CLOSEST CIRCLE OF FRIENDS AND ADVISORS, AND, AS A RESULT OF HIS AESCULAPIAN AUTHORITY, MAY INFLUENCE DECISIONS THAT CONTROL NATIONAL AND WORLD EVENTS.

#### THE DOCTOR'S ROLE: SUGGESTIONS FOR THE FUTURE

REVIEW OF HISTORY LEADS TO CONSIDERABLE DOUBT THAT PRESIDENTS ARE ALWAYS OPTIMALLY SERVED BY THEIR PHYSICIANS. AND, IT IS OBVIOUS THE NATION MAY HAVE BEEN PUT AT UNNECESSARY RISK MORE THAN ONCE IN SOME OF THE DOCTOR-PATIENT RELATIONSHIPS DESCRIBED. IT IS A VERY COMPLICATED AND SENSITIVE PROBLEM. IN FACT, THREE MAJOR ELEMENTS MUST BE PROPERLY CONSIDERED BY ANY PHYSICIAN WHO DWELLS IN THE CORRIDORS OF POWER: ONE IS THE OBLIGATION TO MAINTAIN THE LEADER'S HEALTH AT AS HIGH A LEVEL AS POSSIBLE, WITH RESPECT FOR HIS PRIVACY AND THE CONFIDENTIALITY OF THE DOCTOR-PATIENT RELATIONSHIP. ANOTHER IS THE OBLIGATION TO KEEP CONGRESS AND THE PUBLIC INFORMED ABOUT THE LEADER'S HEALTH, PARTICULARLY WHEN IT IMPINGES UPON THE NATIONAL WELFARE. A THIRD IS, THAT IN CONVEYING INFORMATION TO THIRD PARTIES, THE POLITICAL AND POLICY IMPLICATIONS OF THE DISSEMINATION OF THAT INFORMATION BE FULLY UNDERSTOOD. IT IS POSSIBLE THAT THE FULL DISCLOSURE



THAT TYPIFIED EISENHOWER'S ILLNESSES MAY NOT BE PRUDENT, PRACTICE IN ALL CASES.

STILL OTHER QUESTIONS ARISE IN THIS CONTEXT: CAN LEADERS SERVE EFFECTIVELY EVEN IN THE PRESENCE OF SEVERE DISABILITY (LINCOLN POSSESSED A SEVERE AFFECTIVE DISORDER; ANDREW JACKSON WAS PERHAPS OUR SICKEST PRESIDENT, BUT PERFORMED BRILLIANTLY AT THE RIGHT TIMES; EAGLETON CONTINUES TO BE A STRONG AND ENLIGHTENED VOICE IN THE SENATE DESPITE PREVIOUS DEPRESSIONS AND ELECTROCONVULSIVE THERAPY)? IS THE LAY PUBLIC EQUIPPED TO EVALUATE COMPLICATED MEDICAL INFORMATION? HOW WILL PHYSICIANS LEARN ENOUGH ABOUT POLICY AND POLITICS TO WEIGH WISELY THOSE FACTORS BEFORE RELEASING INFORMATION TO THE PUBLIC?

DURING THE ELECTIONS OF 1980, MEDICAL WORLD NEWS<sup>(18)</sup> ANALYZED OPINIONS OF OVER 500 PHYSICIANS, ASKING THREE MAJOR QUESTIONS:

(1) DOES A CANDIDATE'S PHYSICIAN HAVE AN ABSOLUTE OBLIGATION OF CONFIDENTIALITY TO THE PATIENT? THERE WAS AN OVERWHELMING AFFIRMATIVE TO THIS QUESTION.

(2) CAN YOU IMAGINE A DIAGNOSIS THAT A PHYSICIAN IN THE NAME OF PATRIOTISM SHOULD MAKE PUBLIC AGAINST THE CANDIDATE'S WISHES? IN SEEMING CONTRADICTION TO THE ABOVE, A LARGE MAJORITY OF THE PHYSICIANS VOTED YES.

24.

(3) SHOULD PRESIDENTIAL CANDIDATES BE REQUIRED BY LAW TO MAKE THE STATE OF THEIR HEALTH KNOWN IN DETAIL? A SIGNIFICANT MAJORITY VOTED YES.

IT IS OBVIOUS THAT, IN THE ABSTRACT, BOTH CONFIDENTIALITY AND PATRIOTISM ARE OF CONCERN TO PHYSICIANS, BUT HOW THEY WOULD BE WEIGHED IN A SPECIFIC INSTANCE IS UNKNOWN.

WHAT, THEN, SHOULD BE DONE TO CURE THE PROBLEM? WHEN THE GROUP FOR THE ADVANCEMENT OF PSYCHIATRY COMMITTEE REPORTED THEIR CONSIDERATIONS ON THE "V.I.P. WITH PSYCHIATRIC IMPAIRMENT," (19) THEY RECOMMENDED THAT ORGANIZED PSYCHIATRY SHOULD GET INVOLVED, CHECK AND THAT A PANEL OF QUALIFIED PHYSICIANS, INCLUDING PSYCHIATRISTS, SHOULD EXAMINE TOP POLITICAL LEADERS ON AN ANNUAL BASIS. -

THEY WERE MINDFUL OF THE FACT THAT IN THE MILITARY THERE IS PSYCHIATRIC SCREENING FOR LOWER ECHELONS. THE STRATEGIC AIR COMMAND HAS, IN ADDITION TO SECURITY CLEARANCE, PSYCHIATRIC SCREENING. HOWEVER, THE HIGHER UP IN THE RANKS, THE LESS ARE FORMAL CRITERIA USED, AND THE HARDER THEY ARE TO ENFORCE. THE UPSHOT IS THAT IT IS VERY DIFFICULT TO REMOVE A MILITARY COMMANDER FOR EMOTIONAL IMPAIRMENT. (20) THUS THE PARADOX THAT EISENHOWER AS A SOLDIER HAD TO UNDERGO CAREFUL EXAMINATION FOR FITNESS TO SERVE, BUT AS A COMMANDER IN CHIEF AND PRESIDENT HE UNDERWENT NO REQUIRED EXAMINATION FOR THOSE OFFICES. CHECK ALTHOUGH IT IS TRUE THAT A CANDIDATE MAY MAKE KNOWN HIS MEDICAL RECORD, THIS RECORD IS SUPPLIED BY HIS PERSONAL PHYSICIAN, AND QUALITY

25.

AND DETAIL OF THE RECORDS VARY GREATLY. IN 1980, JERRY BROWN, JR., WHO WAS THEN A CANDIDATE FOR PRESIDENT, REFUSED TO DIVULGE HIS MEDICAL RECORD ALTOGETHER.\*

I BELIEVE THE G.A.P. RECOMMENDATIONS ARE IN THE RIGHT DIRECTION, BUT THERE ARE PRACTICAL DIFFICULTIES. NO LEADER VOLUNTARILY GIVES UP POWER TO ANY GROUP, EVEN PHYSICIANS, AND THE HINT OF A HEALTH PROBLEM REQUIRING PSYCHIATRIC INTERVENTION IS POLITICALLY TANTAMOUNT TO THE KISS OF DEATH. HE FEARS THAT CONFIDENTIALITY MAY NOT BE ADEQUATELY RESPECTED, RECORDS MAY BE TAMPERED WITH, THE PUBLIC MAY MISINTERPRET THE DATA, AND RESTORATION OF POWERS, ONCE ILLNESS IS CURED, MAY BE UNCERTAIN. ALSO, THERE IS THE PROPER CONCERN THAT IN THE PRESENT STATE OF AFFAIRS PSYCHIATRY MAY NOT HAVE THE EXPERTISE, KNOWLEDGE OR SKILL TO INFLUENCE POSITIVELY THE USE OF POWER AT THE NATIONAL OR INTERNATIONAL LEVEL. (21,22,23)

MY PERSONAL VIEW WOULD BE TO CONSIDER ESTABLISHING A PRESIDENTIAL HEALTH COMMISSION OF RENOWNED SPECIALISTS WHO WOULD REPRESENT EXPERTISE IN VARIOUS ASPECTS OF HEALTH, INCLUDING MENTAL HEALTH. THIS GROUP WOULD ADVISE ON  
(A) SCREENING OF CANDIDATES FOR MEDICAL AND EMOTIONAL FITNESS,

(B) CHOICE OF THE LEADER'S PERSONAL PHYSICIAN, (C) USE OF SPECIALIZED CONSULTANTS AND OTHER NECESSARY RESOURCES, (D) USE OF HOSPITALIZATION, (E) DETERMINATION OF WHICH INFORMATION WILL BE RELEASED TO THE PUBLIC, (F) EDUCATION OF THE PUBLIC ON PERTINENT MEDICAL MATTERS. THE PERSONAL PHYSICIAN OF THE LEADER WOULD THEN BE RELIEVED OF THE RESPONSIBILITY OF DECIDING BY HIMSELF WHICH HEALTH INFORMATION TO RELEASE. AND, THE PUBLIC WOULD BE ASSURED THAT THE HEALTH OF THEIR LEADERS WOULD BE IN THE BEST PROFESSIONAL HANDS. THE MOST STRATEGIC AND CRITICAL ADVICE BY THIS GROUP WOULD, OF COURSE, RELATE TO ADVISING WHEN THE OFFICE-HOLDER WAS UNFIT AND WHEN, AFTER TREATMENT, HE WAS AGAIN FIT TO SERVE.

HOW WILL SUCH A COMMISSION BE CHOSEN, HOW LONG WILL MEMBERS SERVE, HOW MUCH AUTHORITY WILL IT BE GIVEN BEYOND ADVISORY FUNCTIONS, HOW WOULD IT BE MADE AS FREE AS POSSIBLE OF POLITICAL INFLUENCE, AND HOW WOULD IT RENEW ITSELF OVER TIME--THESE ARE QUESTIONS THAT REQUIRE A GREAT DEAL OF THOUGHT. HOWEVER, I BELIEVE THERE IS URGENCY IN THESE MATTERS, AND THAT IMPORTANT PROFESSIONAL ORGANIZATIONS IN MEDICINE OUGHT TO BEGIN TO ADDRESS THE ISSUES AS SOON AS POSSIBLE, AND TO MAKE KNOWN THE CRITICAL IMPORTANCE OF THEIR WORK TO THE EXECUTIVE AND LEGISLATIVE BRANCHES AND TO THE PUBLIC.

PSYCHIATRY'S CONCERN WITH POWER

SOCIAL SCIENTISTS, POLITICAL SCIENTISTS AND SOME PHILOSOPHERS ARE EXPLICIT ABOUT THE CENTRALITY OF POWER IN THE SCHEME OF LIFE. "OF THE INFINITE DESIRES OF MAN," SAID BERTRAND RUSSELL, (24) "THE CHIEF ARE THE DESIRES FOR POWER AND GLORY.....THE DESIRE FOR COMMODITIES IS FINITE, AND CAN BE SATISFIED BY A MODERATE COMPETENCE," WHEREAS THE DESIRE FOR POWER IS INFINITE. LEADERS SEEK TO CREATE ORGANIZATIONS OR TO BECOME HEADS OF ORGANIZATIONS THAT HAVE ACCRUED POWER. "THERE IS NO HOPE FOR THE WORLD UNLESS POWER CAN BE TAMED AND BROUGHT INTO SERVICE, NOT OF THIS OR THAT GROUP OF FANATICAL TYRANTS, BUT OF THE WHOLE HUMAN RACE..... FOR SCIENCE HAS MADE IT INEVITABLE THAT ALL MUST LIVE OR ALL MUST DIE."

IS IT PROBABLY TRUE, AS LORD ACTON SAID, THAT "POWER TENDS TO CORRUPT, AND ABSOLUTE POWER CORRUPTS ABSOLUTELY." (25) LASSWELL, (26) IN "PSYCHOPATHOLOGY AND POLITICS," NOTED THAT DEPRIVATION EXPERIENCED BY POLITICIANS IN CHILDHOOD DETERMINES HOW THEY WILL USE POWER AS ADULTS. THERE IS EVIDENCE THAT POWER HOLDERS TEND TO FEEL SUPERIOR TO OTHERS AND TO DEVELOP SOCIAL DISTANCE FROM THEIR FELLOWS.

TOO OFTEN IN HISTORY WE HAVE BEEN MISLED BY LEADERS WHO POSSESS SERIOUS CHARACTEROLOGICAL FAULTS, NEUROSIS, OR EVEN PSYCHOSIS. IN THE FIELD OF PRACTICAL POLITICS THE PRIMACY OF THE POWER GAME IS AFFIRMED AGAIN AND AGAIN. ALTHOUGH

28.

POWER MOTIVATION AFFECTS MOST HUMAN BEINGS, SOME ARE MORE COMPULSIVE ABOUT IT THAN OTHERS, AND GREAT LEADERS CLEARLY SHOW AN INORDINATE AMBITION TO SEIZE AND WIELD POWER.

"IN SEARCHING THE LITERATURE ON POWER, ONE IS IMMEDIATELY STRUCK WITH THE CENTRALITY OF THAT CONCEPT IN THE FIELDS OF SOCIAL AND POLITICAL SCIENCE AND IN SOME PHILOSOPHIES. YET, IN THE AREA OF PSYCHODYNAMICS, POWER IS SOFT PEDALED AND UNDERPLAYED, AND SOMETIMES NOT EVEN MENTIONED..."(27) THERE ARE SEVERAL POSSIBLE REASONS FOR THIS. ONE IS THAT THE POWER CONCEPT IS BURIED IN OTHER PSYCHODYNAMIC FORMULATIONS, SUCH AS THE PROLONGED HELPLESSNESS OF THE INFANT AND CHILD, THE BATTLE THAT TAKES PLACE BETWEEN MOTHER AND CHILD IN THE TRAINING PERIOD, THE OEDIPUS COMPLEX WITH ITS STRUGGLE FOR MASTERY OVER THE FATHER FOR POSSESSION OF THE MOTHER, SIBLING RIVALRY, AND ORGAN INFERIORITY (ADLER).

ANOTHER REASON FOR THE DOWNPLAY OF POWER IN PSYCHIATRY IS THAT THE PSYCHOTHERAPEUTIC RELATIONSHIP IS RIDDLED WITH POWER DYNAMICS, AND IT COULD BE INIMICAL TO TREATMENT IF THE POWER ELEMENT WERE OVEREMPHASIZED. POWER PLAYS MANIFEST THEMSELVES ALSO IN SEX, IN FAMILY INTERACTIONS, AND IN ALL KINDS OF GROUP ACTIVITIES.

WHAT IS ESSENTIAL IS FOR THE EXERCISE OF PATHOLOGICAL POWER TO BE CONTROLLED ESPECIALLY IN GREAT LEADERS. IN THIS RESPECT, IF PSYCHIATRY IS TO PLAY ITS FULL ROLE,



29.

POWER AS A HUMAN MOTIVATION MUST COME OUT OF THE PSYCHIATRIST'S CLOSET AND BE EXAMINED OBJECTIVELY IN ALL ITS IMPLICATIONS. ITS FURTHER EXPLORATION ALSO COULD CONCEIVABLY PROVIDE A USEFUL THEORY BRIDGE ACROSS A VERY WIDE RANGE OF HUMAN BEHAVIOR.

#### CONCLUSIONS

1. PHYSICAL AND MENTAL IMPAIRMENTS IN GREAT LEADERS HAVE BEEN COMMON.

2. PHYSICAL DISORDERS HAVE VARIED FROM MILD TO SEVERE; IN SOME STRIKING CASES, THE INDIVIDUAL HAS BEEN TOTALLY DISABLED FOR LONG PERIODS OF TIME.

3. MENTAL ABERRATIONS HAVE VARIED FROM CHARACTER FLAWS TO PROFOUND DEPRESSION, ALCOHOLISM, NEUROSIS AND GROSS PSYCHOSIS. MENTAL DISABILITIES ASSOCIATED WITH BRAIN DAMAGE OR SOMATO-PSYCHIC DISEASE ARE FAMILIAR.

4. THESE DISABILITIES AT TIMES HAVE COINCIDED WITH THE OCCURRENCE OF CRITICAL NATIONAL AND WORLD EVENTS, IN WHICH THE AFFECTED LEADER HAS, THEREFORE, PLAYED AN INEFFECTIVE ROLE.

5. IN THE PAST THE TREATMENT OF ILLNESS IN GREAT LEADERS HAS LEFT SOMETHING TO BE DESIRED.

6. SECRECY AND COVERUP HAVE CHARACTERIZED PUBLIC RELATIONS IN SEVERAL INSTANCES; NEITHER THE LEGISLATURE NOR THE CITIZENS HAVE BEEN ADEQUATELY INFORMED.

7. DIRECT PSYCHIATRIC ADVICE AND CONSULTATION PER SE HAVE A NEGATIVE POLITICAL CONNOTATION AND ARE SHUNNED BY PERSONS IN POWER.

8. IN THE NUCLEAR AGE, A CHIEF EXECUTIVE MAY BE CALLED UPON FOR HIGH LEVELS OF ALERTNESS AND THE MOST SENSITIVE JUDGMENT AT ALL TIMES.

9. THE PROBLEM HAS NOT RECEIVED ADEQUATE ATTENTION BY RESPONSIBLE AGENCIES, INCLUDING ORGANIZED MEDICINE.

10. A COMMISSION OF RENOWNED SPECIALISTS WHO WOULD BE AS FREE AS POSSIBLE OF POLITICAL INTERFERENCE, AND WHO WOULD ADVISE THE HIGHEST LEVELS ON CRITERIA FOR FITNESS TO SERVE, MEDICAL AND PSYCHOLOGICAL SUPPORT, TREATMENT MODALITIES, LIFE STYLE, ETC., AND ON RELEASE OF INFORMATION TO CONGRESS AND THE PUBLIC, IS OFFERED AS ONE SUGGESTION FOR ACTION.

FOOTNOTES

Manuscript page 3:

It is interesting to note that longevity for the first 10 Presidents averaged around 78 years, whereas longevity thereafter averaged about 64 years. Furthermore, 5 of the first 10 Presidents reached age 80 or beyond, but only one of all the succeeding Presidents reached age 80 or beyond (this was Harry Truman, who died at 87).

Manuscript page 14:

After President Eisenhower's heart attack in 1955, the Dow plunged 31.89 points in one day of trading, and took two months to make up the lost ground.

Stocks dropped 21.16 points the day that President Kennedy was killed, in 1963, but gained back 32.03 points on the next trading day.

Manuscript page 17:

In preparing this section, we are indebted to Professor Kenneth Karst, UCLA School of Law, expert on Constitutional law.

Manuscript page 25:

No adequate legal procedures exist to remove a Supreme Court Justice, should he become disabled while holding office. However, in California, in 1960, a Judicial Qualification Commission was established to deal with unfit judges. Of the first 10 cases that resulted in retirement, three had severe mental impairment, irritability, erratic behavior, failing memory, etc. (20)

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—Frederic Wertham, M.D.

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# Law, Liberty, and Psychiatry

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emotional immaturity, racial inferiority, and so forth. Once a person is placed in the second category, *what* he says becomes irrelevant, though *why* he says it may be considered interesting.

Thus, a serious disagreement implies a basically dignified human relationship. At least in the context of the conflict, the participants treat each other as equals. In contrast, a situation in which the position of only one of the participants is taken seriously, while that of his opponent is disregarded, bespeaks a relationship between a superior and an inferior, a master and slave. When initiated by the former, it is a means of degrading his partner. When it is invited by the latter, or is placidly accepted by him, it is self-inflicted degradation.

Occasionally both parties benefit from this shift in attitude. Since kindness, or at least pretended kindness, toward the sick is an integral part of our ethic, the offender who is considered mentally ill may be treated more sympathetically than he might otherwise be. The stronger or superior member of the conflicting pair may also benefit from this arrangement. First, he does not have to take seriously the charges of a critic who is his inferior; second, he avoids the guilt feelings which are invariably associated with meting out punishment. These feelings tend to be particularly distressing when someone who is loved or admired is punished. Prominent artists, Ezra Pound among them, fall into the group of the admired, and hence are not expected to adhere completely to the social rules binding for others. The parental obligation to punish children for infraction of rules gave rise to the saying, "It hurts me more than it hurts you!" This saying is as misleading as it is incomplete. Still, it suggests what parents feel when they discipline their children. Enlarged, this phenomenon is analogous to that of a nation judging and punishing one of its revered members.

Still, it may be asked, what can be the objection to showing kindness to Pound, as was allegedly done by not bringing him to trial? Is this not a fair way to treat the so-called mentally ill criminal? The basic objection is that the social sanctions employed in such cases violate the principles of the open society, by substituting for the Rule of Law the Rule of Men. If this violation of the Rule of Law is due to the humanistic wish to be kind to those who break the laws, it is committed unnecessarily, for trial and, in case of guilt, conviction of offenders need not prevent us from treating them with decency and kindness.

I have previously criticized the practice of giving psychiatric testimony in ordinary criminal trials (see Chapter 10). This practice is particularly undesirable in cases of political offense. When psychiatrists participate in the social disposition of such persons, they renounce the ethics of science for the values uppermost in society at any given time.

Let us recall in this connection that many prominent men have served time in jail for political offenses. Castro, Gandhi, Hitler, Nehru, Russell,

Sukarno, to name a few, have all been sentenced to jail for opposing laws. In the past, Galileo, Jesus, and Socrates found themselves in opposition to duly appointed social authority. These men were taken seriously, and were punished in the manner prescribed by law. Surely, the way Pound was treated impugns his stature.

Pound was originally confined in a mental hospital ostensibly because of his alleged mental illness. Was he released because he recovered? Or because there was a change in the political climate? Or because he was punished enough? The psychiatrists in charge of Pound stated that he was still mentally ill, indeed that he would never be sane enough to stand trial. But, they added, he was no longer a danger to himself or to others. Appropriately enough, reporting on these developments, *Time* magazine (April 28, 1958) captioned his picture with the words: "Freedom for the warped." Are we to assume that he was given the precious gift of freedom *because* he was warped? Had he not been warped, but healthy, would he have continued to be deprived of his freedom?

It seems to me, as it did to Wertham (1949), that Pound played the game against the United States, played it well and honorably—but lost! As we have noted, Pound was not alone among artists in his admiration of "strong" men. George Bernard Shaw, for example, also admired the Fascist leaders. The point is, however, that Pound allegedly violated the laws of his country. The Rule of Law demands that the government play the game seriously, according to the rules: that is, that Pound be tried, sentenced if guilty, and later, if it be deemed just, pardoned and released. It may be objected that avoidance of trial on the grounds of insanity is part of the laws of our country. That is true. But as Hayek has shown, a duly constituted law is not the same as the Rule of Law. The latter is characterized by its consistency and inflexibility, in brief, by the fact that it is applied predictably and without exceptions. Since the issue of insanity is raised in some cases but not in others, and when raised is interpreted in an unpredictable manner, it serves as a particularly useful means for individualizing the administration of justice. But we cannot have our cake and eat it too. Exceptions to the Rule of Law on the grounds of mental illness are exceptions nonetheless, and compare with those that favor or penalize a group because of race or religion.

#### On the Discretion to Invoke Psychiatric Action: An Example of the Rule of Men

As the Rule of Law requires impartial application of rules to all men, so the Rule of Men allows discretion in the choice of rules for each case. The psychiatric disposition of alleged offenders means, first, that the legal

and psychiatric authorities are free to seek or avoid psychiatric participation in the criminal process, and second, that they have wide and arbitrary powers to judge a person's sanity.

Until charged with an offense Pound's sanity had never been questioned. In other words, the issue of commitment never arose in his role as private citizen. It is important to keep this in mind, because the subsequent psychiatric picture of him implied that the diagnosis of Pound's paranoia was a purely medical finding, unrelated to his indictment.

What were the grounds for this diagnosis? The main ones were Pound's eccentric and grandiose behavior, and his belief in a "self-appointed mission to 'save the Constitution.'" To be sure, such conduct is sometimes labeled "paranoid," but not always. The labeling also depends on who the person to be diagnosed happens to be. This is where the psychiatric diagnostic and dispositional process can be shown to be crassly arbitrary. In this procedure, men do not apply established rules impartially, but instead follow their own desires.

Men other than Pound have exhibited traits of eccentricity, egocentricity, and grandiosity. Indeed, Jesus was said to have shown these "symptoms," and, accordingly, several psychiatrists diagnosed him as having suffered from paranoia. Schweitzer's study (1913), referred to earlier, was an attempt to refute the works of three psychiatrists, each of whom claimed to have established that Jesus was mentally abnormal.

De Loosten, a German, described Jesus as a "hybrid, tainted from birth by heredity, who even in his early youth as a born degenerate attracted attention by an extremely exaggerated self-consciousness combined with high intelligence and a very slightly developed sense of family and sex. His self-consciousness slowly unfolded until it rose to a fixed delusional system, the peculiarities of which were determined by the intensive religious tendencies of the time and by his one-sided preoccupation with the writings of the Old Testament" (Schweitzer, 1913, page 37).

Hirsch, an American, diagnosed Jesus as paranoid. Said he: "Everything that we know about him conforms so perfectly to the clinical picture of paranoia that it is hardly conceivable that people can even question the accuracy of the diagnosis" (page 40). To which Schweitzer added: "At the conclusion of this exposition he goes so far as to assert that no textbook on mental disease could provide a more typical description of a gradually but ceaselessly mounting megalomania than afforded by the life of Jesus" (page 41).

Binet-Sanglé, a Frenchman, also considered Jesus paranoid. Wrote Schweitzer: "Binet-Sanglé wishes to establish the secretiveness of the paranoid. He adduces as evidence of this the fact that the Nazarene regarded his Messiahship and certain points in his teaching as secrets to be veiled, gave evasive answers to questions and was brought to admit his system

of delusions only under the stress of emotion, as, for example, in the proceedings at the trial" (page 44).

Schweitzer rallied to the defense. He argued, quite cogently, that it is difficult to know what the behavior of Jesus was really like, and, in any case, it must be evaluated in the context of the society in which he lived. Concluded Schweitzer: "The only symptoms to be accepted as historical and possibly to be discussed from the psychiatric point of view—the high estimate which Jesus has of himself and perhaps also the hallucination at the baptism—fall far short of proving the existence of mental illness" (page 72).

Of greater interest than the efforts of those hostile to Jesus to incriminate him as paranoid, and of those friendly to him to exonerate him, is Schweitzer's quaint protestation of impartiality. In the Preface of his book, he wrote:

That I command the impartiality necessary for this undertaking I believe I have proved by my former studies in the field of the life of Jesus. Should it really turn out that Jesus' object world must be considered by the doctor as in some degree the world of a sick man, still this conclusion, regardless of the consequences that follow from it and the shock to many that would result from it must not remain unuttered, since reverence for truth must be exalted above everything else. With this conviction I began the work, suppressing the unpleasant feeling of having to subject a great personality to psychiatric examination, and pondering the truth that what is great and profound in the ethical teachings of Jesus would retain its significance even if the conceptions in his world outlook and some of his actions had to be called more or less diseased [page 28].

Thus, instead of acknowledging his pro-religious, and especially his pro-Christian, bias, Schweitzer claimed that he was impartial.

It is of particular interest to us, as students of the Pound case, that Overholser (1948), who found Pound to be paranoid, wrote a warmly approving Foreword for the American edition of Schweitzer's book. This is an excellent example of the discretionary attitude toward psychiatric evidence. That Overholser sided with Christ and Schweitzer, rather than with the psychiatrists who called Jesus paranoid, is not surprising. We may well ponder whether, and for how long, the Superintendent of the United States Government's Number One mental hospital could retain his position if he publicly announced that Jesus was a paranoid. However, he could claim with impunity—indeed, with public approbation—that a person indicted for treason by the government was paranoid.

And so, as in Orwell's *Nineteen Eighty-four*, history is made by "bringing facts up to date." The great poet, Robert Frost, applauds as a "very nice discrimination" Overholser's pronouncement that Pound is not too dangerous to be released, but too insane ever to be tried. And so, in 1961,

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## The Death Of Psychiatry

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An eminent psychiatrist  
uses his well-functioning "crap-detector"  
to administer the coup de grace  
to an over-age and hurtful discipline

Chilton

Doctor Frankenstein himself could not have done worse. The concept of nonresponsibility of mental "patients" has proven to be Pandora's box, which daily spews forth new evils—decreased self-esteem of those labeled as mentally "ill," the discrediting of their thoughts and achievements, the deprivation of their civil liberties, their involuntary confinement, and the use of insanity as a legal defense to excuse crime. Though originally applied for humanitarian reasons, the label "not responsible" has proven to be a millstone around the neck of those so labeled and often causes them to drown. It is a rose whose deadly thorns far exceed its lovely looks. Let us examine some of the thorns.

#### DECREASED ESTEEM

First, there is no question but that calling a person mentally "ill" is pejorative. Studies utilizing the semantic differential have shown that the public views mental "patients" as more worthless, dirty, dangerous, cold, insincere, unpredictable, and weaker than the general population.<sup>1</sup> Another study showed that mental "patients" viewed themselves similarly as excitable, foolish, unsuccessful, slow, cruel, weak, curved, and ugly.<sup>2</sup> Thus the label decreases both the self-esteem of mental "patients" and their esteem by others. It makes them into a subhuman species. The only analogous situation in physical medicine is the label of leprosy.

Some have contended that the negative associations with the label mental "illness" are simply an unfortunate historical accident and that as we educate the public better they will disappear.<sup>3</sup> These people speak enthusiastically of the time when it will be no more derogatory to call someone mentally "ill" than it will be to say they have diabetes. This is unlikely. The pejorative connotations of mentally "ill" are inherent in the concept itself and are partly a function of the belief that these individuals are not responsible. As Theodore Sarbin summarizes it: "One can no more delete by fiat the evaluational component from 'mental illness' than eliminate the 'pleasantness' from the act of eating a preferred food."<sup>4</sup>

#### THE DISCREDITING OF OTHERS

A more serious consequence of the belief that mental "patients" are not responsible is the entry that it provides for

discrediting others' thoughts and achievements. Since mental "patients" are not responsible, then everyone who can successfully be labeled as mentally "ill" can be ignored, depreciated, and even ridiculed. Their thoughts and their actions assume the same importance as those of a circus clown. This label, of course, then becomes a potentially deadly political and philosophical weapon.

It did not take long after the formal discipline of psychiatry began for professionals to begin using this weapon. Jesus was one of the first intended victims. Between 1905 and 1912 four books were published in an attempt to prove that Jesus was mentally "ill"—*Jesus Christ from the Standpoint of Psychiatry*; *Jesus: A Comparative Study of Psychopathology*; *The Insanity of Jesus*; and *Conclusions of a Psychiatrist*.<sup>5</sup> The authors focused on his ideas of grandiosity and persecution, ideas of reference, auditory and visual hallucinations, and fixed delusional system. If Jesus really was "insane," they imply, then all those things He did and said can be disregarded as the irresponsible ravings of a "madman." Other great figures in history and literature have been similarly subjected to this insidious pseudoscientific mudslinging—Copernicus, Galileo, Luther, Dostoyevsky, Nietzsche, and Kafka.

More recently, the label mentally "ill" has come into fashion politically. Psychiatrist Thomas Szasz has reviewed the case of Ezra Pound, accused by the United States government of treason during World War II. Instead of being brought to trial, however, he was labeled as mentally "ill" and incarcerated in a mental "hospital."<sup>6</sup> Any honest differences that Mr. Pound may have had with American policy were thereby glossed over and effectively shunted aside, since he was by definition not responsible.

Another contemporary example was the poll of psychiatrists taken by *Fact* magazine on the mental "health" of Mr. Barry Goldwater when he was a presidential candidate in 1964. Almost 1,200 psychiatrists judged him to be "psychologically unfit" in the poll, thereby casting doubt on his ability to hold office.<sup>7</sup> The United States government's persecution of former General Edwin Walker during his involvement in the civil rights struggle in the South is yet another example and a grossly irresponsible misuse of psychiatry. He was arrested, charged with sedition, and then

committed against his will to a mental "hospital" for pretrial psychiatric examination. The effect was to discredit his political activity against integration. Szasz has documented this sorry case in detail.<sup>8</sup> The civil rights struggle produced abuses of psychiatry on the other side as well, as when civil rights workers were "hospitalized" for "observation" of possible mental "illness." As Robert Coles has noted, it was "a fashionable kind of slander."<sup>9</sup> The fact that both General Walker and civil rights workers could be discredited with the same weapon illustrates that it is a sword which can be used in the name of any and every political philosophy.

In recent years, there have been news reports that the Soviet government has adopted this same technique to discredit political dissidents. Poet Natalia Gorbanyevskaya, General Piotr Grigorenko, and biologist Zhores Medvedev, among others, have been detained on charges of "defaming the Soviet State," found to be "insane" by a panel of psychiatrists, and sent to mental "hospitals." This is a much more effective means of political suppression than simply sending them to labor camps in Siberia because it discredits everything they have said as well as removing them from circulation. Various groups within American psychiatry have censured the Soviet government's action and the collusion by Soviet psychiatrists. Most of the groups, very wisely, have included a condemnation of the practice in *all* countries, including our own.

It should be noted that society has a large stake in the use of psychiatry to discredit others. Insofar as I can call someone who disagrees with me "crazy," I can ignore the substance of his disagreements. What he says is irrelevant. The label reassures me that I am right—those who think otherwise have a "disease" of their mind and cannot think clearly. This ploy of self-justification is used commonly by individuals and, as has been pointed out, can be used by governments as well. If the idea of mental "illness" were abolished, this ploy would no longer be available; we would have to pay attention to some of our "crazy" critics rather than just cavalierly ignoring them.

It is also important to make a distinction between discrediting others by labeling them mentally "ill" and analyzing motivations behind another person's behavior, either public or

private. The latter is not only legitimate but desirable. For historical figures, it has come to be known as psycho-history. The difference between the two is the difference between calling Van Gogh a schizophrenic or saying that he had private visions which influenced his painting. The first is a label which discredits him, the second a statement which tries to explain why he painted what he did.

#### DEPRIVATION OF CIVIL RIGHTS

Since a mentally "ill" person is not responsible, he cannot be thought of as a regular citizen. He belongs in an inferior class of beings who do not have the same rights, obligations, and privileges as people who are mentally "healthy." Laws vary in different states regarding which civil rights are abridged for the mentally "ill"; but usually included are the rights to vote, drive, make a contract, marry, be called for jury duty, and sometimes even stand trial. Depriving an individual of such rights is, of course, a gross violation of the Constitution and can only be done under the medical rationalization of the person being mentally "ill."

The deprivation of rights of mental "patients" has received little attention until recently and has usually been taken for granted. Those who have focused on it, however, have found that the facts are at variance with our assumptions and rationalizations. For instance, a mock election was held at the Bronx State Hospital in New York State simultaneous with the real gubernatorial election in 1966 and presidential election in 1968. The returns of the mental "patients" matched the returns from the Bronx as a whole almost exactly in their voting pattern.<sup>10</sup> One is left with only two possible conclusions: either the whole Bronx is mentally "ill" or there is no justification for the disenfranchisement of people whom we label as mentally "ill."

Another interesting study was one in which mental "patients" were used as jurors in a mock trial. Nine jury groups of six "patients" each were drawn from individuals labeled as "paranoids," "psychopaths," and "depressives" in a mental "hospital." Regular jurors from outside the "hospital" were used as controls. The results of the mock trial revealed





**Diagnostic  
and Statistical Manual  
of Mental Disorders**  
(Third Edition)



## Introduction

Robert L. Spitzer, Chairperson  
Task Force on Nomenclature and Statistics  
American Psychiatric Association

This is the third edition of the *Diagnostic and Statistical Manual of Mental Disorders* of the American Psychiatric Association, better known simply as DSM-III. The development of this manual over the last five years has not gone unnoticed; in fact, it is remarkable how much interest (alarm, despair, excitement, joy) has been shown in successive drafts of this document. The reasons for this interest are many.

First of all, over the last decade there has been growing recognition of the importance of diagnosis for both clinical practice and research. Clinicians and research investigators must have a common language with which to communicate about the disorders for which they have professional responsibility. Planning a treatment program must begin with an accurate diagnostic assessment. The efficacy of various treatment modalities can be compared only if patient groups are described using diagnostic terms\* that are clearly defined.

Secondly, from its very beginning, drafts of DSM-III have been widely circulated for critical review and use by clinicians and investigators. This made them aware of the many fundamental ways in which DSM-III differs from its predecessor, DSM-II, and from its international contemporary, the mental disorders chapter of the ninth revision of the *International Classification of Diseases* (ICD-9). For example, DSM-III includes such new features as diagnostic criteria, a multiaxial approach to evaluation, much-expanded descriptions of the disorders and many additional categories (some with newly-coined names); and it does not include several time-honored categories.

Finally, interest in the development of this manual is due to awareness that DSM-III reflects an increased commitment in our field to reliance on data as the basis for understanding mental disorders.

### BACKGROUND\*

The first edition of the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* appeared in 1952. This was the first official manual of mental disorders to contain a glossary of descriptions of the diagnostic categories. The use of the term "reaction" throughout the classification reflected the influence of Adolf Meyer's psychobiological view that mental disorders represented reactions of the personality to psychological, social, and biological factors. In the development of the second edition (DSM-II), a decision was made to base the classification on the mental disorders section of the eighth revision of the *International Classification of Diseases*, for which representatives of the American Psychiatric Association had provided consultation. Both DSM-II and

\* Some readers may wish, for now, to skip Background and The Process of Development of DSM-III and plunge directly into Basic Concepts on p.5.

## 188 Diagnostic Categories

In Factitious Disorder with Psychological Symptoms, "psychotic" symptoms are under the individual's voluntary control and are likely to be present only when the individual thinks he or she is being observed.

In Personality Disorders, especially Schizotypal, Borderline, Schizoid, and Paranoid types transient psychotic symptoms may occur. However, a return within hours or days to the usual level of functioning distinguishes these disorders from Schizophrenia. It is more difficult to distinguish severe forms of Paranoid and Schizotypal Personality Disorders from Schizophrenia because of the difficulty in determining whether the paranoid ideation is of delusional intensity and whether the oddities of communication and perception are severe enough to meet the criteria for Schizophrenia. Furthermore, it is often difficult to differentiate the prodromal phase of Schizophrenia from the manifestations of some of the Personality Disorders since both Personality Disorders and Schizophrenia usually develop during adolescence or early adult life.

Beliefs or experiences of members of religious or other subcultural groups may be difficult to distinguish from delusions or hallucinations. When such experiences are shared and accepted by a subcultural group they should not be considered evidence of psychosis.

In Mental Retardation, low level of social functioning, oddities of behavior, and impoverished affect and cognition all may suggest Schizophrenia. Both diagnoses should be made in the same individual only when there is certainty that the symptoms suggesting Schizophrenia, such as delusions or hallucinations, are definitely present and are not the result of difficulties in communication.

### Diagnostic criteria for a Schizophrenic Disorder

A. At least one of the following during a phase of the illness:

- (1) bizarre delusions (content is patently absurd and has no possible basis in fact), such as delusions of being controlled, thought broadcasting, thought insertion, or thought withdrawal
- (2) somatic, grandiose, religious, nihilistic, or other delusions without persecutory or jealous content
- (3) delusions with persecutory or jealous content if accompanied by hallucinations of any type
- (4) auditory hallucinations in which either a voice keeps up a running commentary on the individual's behavior or thoughts, or two or more voices converse with each other
- (5) auditory hallucinations on several occasions with content of more than one or two words, having no apparent relation to depression or elation
- (6) incoherence, marked loosening of associations, markedly illogical thinking, or marked poverty of content of speech if associated with at least one of the following:

full of jokes, puns, plays on words, and amusing irrelevancies. It may become theatrical, with dramatic mannerisms and singing. Sounds rather than meaningful conceptual relationships may govern word choice (clanging). If the mood is more irritable than expansive, there may be complaints, hostile comments, and angry tirades.

Frequently there is flight of ideas, i.e., a nearly continuous flow of accelerated speech with abrupt changes from topic to topic, usually based on understandable associations, distracting stimuli, or plays on words. When flight of ideas is severe, the speech may be disorganized and incoherent. However, loosening of associations and incoherence may occur even when there is no flight of ideas, particularly if the individual is on medication.

Distractibility is usually present and manifests itself as rapid changes in speech or activity as a result of responding to various irrelevant external stimuli, such as background noise or signs or pictures on the wall.

Characteristically, there is inflated self-esteem, ranging from uncritical self-confidence to marked grandiosity, which may be delusional. For instance, advice may be given on matters about which the individual has no special knowledge, such as how to run a mental hospital or the United Nations. Despite a lack of any particular talent, a novel may be started, music composed, or publicity sought for some impractical invention. Grandiose delusions involving a special relationship to God or some well-known figure from the political, religious, or entertainment world are common.

Almost invariably there is a decreased need for sleep; the individual awakens several hours before the usual time, full of energy. When the sleep disturbance is severe, the individual may go for days without any sleep at all and yet not feel tired.

The term "hypomania" is used to describe a clinical syndrome that is similar to, but not as severe as, that described by the term "mania" or "manic episode."

**Associated features.** A common associated feature is lability of mood, with rapid shifts to anger or depression. The depression, expressed by tearfulness, suicidal threats, or other depressive symptoms, may last moments, hours, or, more rarely, days. Occasionally the depressive and manic symptoms intermingle, occurring at the same time; or they may alternate rapidly within a few days. Less often, in Bipolar Disorder, Mixed, the depressive symptoms are more prominent and last at least a full day, and there is the full symptom picture of manic and major depressive episodes.

When delusions or hallucinations are present, their content is usually clearly consistent with the predominant mood (mood-congruent). God's voice may be heard explaining that the individual has a special mission. Persecutory delusions may be based on the idea that the individual is being persecuted because of some special relationship or attribute. Less commonly, the content of the hallucinations or delusions has no apparent relationship to the predominant mood (mood-incongruent). The usefulness of the distinction between mood-congruent and mood-incongruent psychotic features is controversial.

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C. Neither of the following dominate the clinical picture when an affective syndrome (i.e., criteria A and B above) is not present, that is, before it developed or after it has remitted:

- (1) preoccupation with a mood-incongruent delusion or hallucination (see definition below)
- (2) bizarre behavior

D. Not superimposed on either Schizophrenia, Schizophreniform Disorder, or a Paranoid Disorder.

E. Not due to any Organic Mental Disorder, such as Substance Intoxication.

(Note: A hypomanic episode is a pathological disturbance similar to, but not as severe as, a manic episode. See Atypical Bipolar Disorder, p. 223.)

**Fifth-digit code numbers and criteria for subclassification of manic episode**

6— **In Remission.** This fifth-digit category should be used when in the past the individual met the full criteria for a manic episode but now is essentially free of manic symptoms or has some signs of the disorder but does not meet the full criteria. The differentiation of this diagnosis from no mental disorder requires consideration of the period of time since the last episode, the number of previous episodes, and the need for continued evaluation or prophylactic treatment.

4— **With Psychotic Features.** This fifth-digit category should be used when there apparently is gross impairment in reality testing, as when there are delusions or hallucinations or grossly bizarre behavior. When possible, specify whether the psychotic features are mood-incongruent. (The non-ICD-9-CM fifth-digit 7 may be used instead to indicate that the psychotic features are mood-incongruent; otherwise, mood-congruence may be assumed.)

**Mood-congruent Psychotic Features:** Delusions or hallucinations whose content is entirely consistent with the themes of inflated worth, power, knowledge, identity, or special relationship to a deity or famous person, flight of ideas without apparent awareness by the individual that the speech is not understandable.

**Mood-incongruent Psychotic Features:** Either (a) or (b):

- (a) Delusions or hallucinations whose content does not involve themes of either inflated worth, power, knowledge, identity, or special relationship to a deity or famous person. Included are such symptoms as persecutory delusions, thought insertion, and delusions of being controlled, whose content has no apparent relationship to any of the themes noted above.

Joyce L. Sanders, R. N., M.S.H.P., Assistant Director, Office of Continuing Education, Texas Department of Mental Health and Mental Retardation, Texas Research Institute of Mental Sciences, Houston, Texas (Chapters 1, 2, 17, 18, 19, 20)

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## Introduction

The American Psychiatric Association has recommended that effective July 1, 1980, the psychiatric community adopt the long-awaited Diagnostic and Statistical Manual, Third Edition (DSM-III). Because DSM-III is different in many ways from its predecessor, DSM-II, there is a need for continuing education and training of both professionals and students in psychiatry, psychology, social work, nursing and other mental health related professions. The Training Guide provides a detailed outline of the basic concepts of DSM-III and is designed for use by both individuals and institutions.

Individually, the Guide can be used to review the major diagnostic classifications and to prepare for the nosology section of state boards, licensures, and certification examinations. Also, used in conjunction with the DSM-III, the Guide can assist the clinician in accurately applying the new classification system to the diagnosis of patients and clients.

Institutionally, the Training Guide can be used by educators as an instructional guide to teach students and train professionals in the basic concepts and use of DSM-III. A set of accompanying slides and a videotape with five case vignettes are available for institutional purposes. The audiovisuals are designed as a complement to the Guide and provide the educator with supplementary instructional material to train the professionals and students in their organizations. The numbers in the left-hand margin of the Guide refer to the slides. The material included in the slides is also covered in the text of the Guide. Likewise, the five videotape vignettes are described in sufficient detail in Chapter 24 to allow practice in the use of the DSM-III on all five axes.

The Training Guide is divided into four sections with a total of 24 chapters. The first three sections are comprehensive instructional guides and are

designed sequentially with each section building on the preceding one. The fourth section addresses the application of the content covered in the first three sections.

Section I reviews the history and development of DSM-III and provides an overview of the multiaxial scheme. The purpose and rationale for DSM-III, the major differences between DSM-II and DSM-III, and the relationship between the mental disorders section of ICD-9-CM and DSM-III are outlined. The rationale for each axis is provided, along with practice examples in its use.

Section II reviews information on the key concepts involved in using DSM-III, such as the glossary, format, decision trees and diagnostic criteria. An introductory overview of the major classifications on Axes I and II is provided, along with a discussion of the use of Axes I and II together. Significant differences between DSM-II and III in the major classifications are outlined. The purpose and the rationale for the use of Axis III is identified and the relationship between Axis III and ICD-9 (Physical Disorders Section) is defined. The purpose and use of Axes IV and V are also described and case vignettes are provided for practice in the use of both Axes IV and V.

Section III provides an in-depth review of specific disorders within the major classifications on Axes I and II and key differences in the DSM-II and DSM-III approaches to the classification. Written case vignettes are included following the review of each major classification with the answers provided in the Appendix of the Guide. Chapters 9 through 22 review each major classification on Axes I and II. Chapter 10 combines Substance Use Disorders and Organic Mental Disorders, since in both classifications factors other than strictly "functional" processes are involved, and it is very often the case that an Organic Mental Disorder is encountered as a consequence of a Substance Use Disorder. Likewise, Chapter 11 combines Schizophrenic Disorders, Paranoid Disorders, and Psychotic Disorders Not Elsewhere Classified because many of these conditions are quite similar on cross-section and can only be distinguished by longitudinal differences.

Section IV is concerned with the application of the information presented in the preceding sections. Chapter 23 includes information on coding procedures, use of fifth digit, and V Codes and E Codes. In Chapter 24 five case vignettes are included to allow practice on all five axes. A discussion follows each of the cases and the answers are included in the Appendix.

While the Guide is organized in a sequential manner, the curriculum may be used in a variety of ways, depending on the learning needs of the particular organization or individual. For example, Section III includes detailed instructional material on each of the major classifications of DSM-III and the

specific disorders within the classifications. Some individuals or institutions may want to devote considerable time to reviewing the information on three or four of the major classifications and only briefly review the remaining diagnostic classifications. Others may prefer to study the detailed outline provided on each of the classifications. The users will need to carefully review the content of the Guide and then, depending on their learning needs or the needs of their audience, adapt the materials to meet their educational objectives.

In summary, it is important to emphasize that the Training Guide should be used in conjunction with the DSM-III manual. To be able to accurately apply the multiaxial diagnosis to actual clients/patients, the individual will need not only a good instructional program, but also considerable practice with DSM-III. Likewise, educators who plan to use the Training Program should be familiar with the Training Guide, slides, videotape and, equally important, DSM-III.



A boundary has been defined so that the diagnosis of Schizophrenic Disorder is used only if the onset is before age 45. An identical condition with onset after that age would be called Atypical Psychosis.

**Diagnostic Criteria**

There are six criteria for the diagnosis of Schizophrenia identified as A through F in DSM-III, pp. 188-190, and in Table 9.

- Criterion A concentrates on the cross-sectional exam of mental status. It only takes one of these items to meet criterion A. These are used

**TABLE 9**  
**Diagnostic Criteria for Schizophrenia**

- A. At least one of the following at some point in the illness:
- (1) Bizarre delusions
  - (2) Somatic, grandiose, religious, nihilistic or other delusions (not persecutory or jealous)
  - (3) Persecutory or jealous delusions if accompanied by hallucinations of any type
  - (4) Auditory hallucinations
  - (5) Incoherence, markedly illogical thoughts, or marked poverty of content in speech if associated with one:
    - a. blunted, flat, or inappropriate affect
    - b. delusions or hallucinations
    - c. catatonic or other grossly deranged behavior
- B. Deterioration in adaptive functioning
- C. Symptoms are present and have been continuous for more than six months
- D. Affective Disorder ruled out
- E. Onset before age 45
- F. Organicity and Mental Retardation ruled out

as an important set of distinctions in differential diagnosis to distinguish Schizophrenia from an actual Paranoid Disorder.

- Criterion B requires the all-important loss of adaptive functioning.
- Criterion C relates to duration.
- Criterion D indicates that Affective Disorder must be excluded.
- Criterion E is the arbitrary age limit for onset.
- Criterion F excludes organicity. If Mental Retardation is present, as much of the clinical picture that is explainable as features of retardation would be credited to that disorder. If sufficient symptoms beyond the bounds of retardation are present, both diagnoses are made.

These criteria are the guides to the class of Schizophrenia. Schizophrenia is not in itself a complete diagnosis; a complete diagnosis requires designation of the type of Schizophrenia and the course of the condition.

**Types**

- 62 There are five types of Schizophrenia based on the differentiation of the cluster of symptoms into some distinctive pattern. Each type must first meet the criteria for the class of Schizophrenia.

**Disorganized Type.** Features of this type include prominent incoherence, lack of systematized delusions, and blunted, inappropriate, or silly affect. This is the type when the clinical picture has differentiated toward incoherence as the prominent feature.

**Catatonic Type.** Features of the Catatonic Type include stupor or mutism, negativism, rigidity, excitement, and posturing. This is the type when the clinical picture has differentiated into some of these rather dramatic features.

**Paranoid Type.** Features of this type are persecutory and grandiose delusions, delusional jealousy, and persecutory or grandiose hallucinations. If the clinical picture has differentiated into a great deal of paranoid organization, this is the type of Schizophrenia. First of all, there must be the features that establish that this is Schizophrenia, then that it fits this Paranoid Type. A Paranoid Disorder could not meet the criteria for Schizophrenia.

**Undifferentiated Type.** This type of Schizophrenia features grossly disorganized behavior, hallucinations, incoherence, or prominent delusions. This category is used when the criteria for other types are not met, or an indi-

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

-----  
Donald L. Kieffer

v.

Civil No. 77-381-D

Holy Spirit Association for  
the Unification of World  
Christianity  
-----

Concord, New Hampshire

July 23, 1980

Wednesday, 9:30 AM

TESTIMONY OF WITNESS JOHN G. CLARK, JR.

BEFORE:

The Honorable Shene Devine, Chief  
Judge, U. S. District Court, and  
a jury.

Appearances:

James M. Winston, Esq., and John  
P. Winston, Esq., for the plaintiff.

Jean-Claude Sakellarios, Esq.  
Vincent C. Martina, Esq., and  
David C. Hager, Esq., for the  
defendant.

WITNESSES

	<u>D</u>	<u>C</u>	<u>RD</u>	<u>RC</u>	<u>PRD</u>	<u>PRC</u>
John G. Clark, Jr.	3	65	151	161		

EXHIBITS

<u>Exhibit No.</u>	<u>Identification</u>	<u>Evidence</u>
Defendant's A	71	
C... B		1:1

that may be expressed, relate them to their behavior. And if they wish to have a belief about the devil, but they still don't sacrifice chickens to the devil, then anybody can believe in the devil.

XQ. That's healthy?

A. Pardon?

XQ. That could be healthy?

A. For some people, it is perfectly healthy. There are all kinds of beliefs. I am not interested in people's beliefs unless they are made into acts that are eggregious, and I would --

XQ. Do you think believing in God is helpful?

A. I'm certain that it is helpful, but it's also been very, very damaging for some people.

XQ. It has?

A. It's how it is used. People then take the belief to God, and take it all the way to him in human sacrifice. In that case, I would consider from my point of view --

XQ. You mean --

THE COURT: Let him finish.

THE WITNESS: I would consider that, from my point of view, that was bad behavior. And its relationship to the belief is interesting, but it's the behavior that in court and in open society that is important.

(Questions by Mr. Sakellarios)

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z/bh

September 2, 1986

SUPREME COURT ; APPELLATE DIVISION

SECOND JUDICIAL DEPARTMENT

LAZER, J.P., THOMPSON, NIEHOFF and KUNZEMAN, JJ.

CHARLES F. MERONI, JR., etc.,

Respondent,

- against -

THE HOLY SPIRIT ASSOCIATION FOR THE UNIFICATION OF  
WORLD CHRISTIANITY,

Appellant, et al.,

Defendant.

APPEAL by the defendant The Holy Spirit Association for the Unification of World Christianity, from so much of an order of the Supreme Court at Special Term (Gerard E. Delaney, J.), entered October 12, 1984, in Westchester County, as denied those branches of its motion which were to dismiss the first and second causes of action brought against it on behalf of the Estate of Charles Thomas Meroni and the second cause of action brought against it on behalf of Charles F. Meroni, Jr.

Rabinowitz, Boudin, Standard,  
Krinsky & Lieberman, P.C., New  
York, N. Y. and Levy, Gutman,  
Goldberg & Kaplan, New York, N.  
Y. (Eric M. Lieberman and Terry  
Gross of counsel), for appellant.

Joseph A. Tracy, Scarborough, N.  
Y., for respondent

N I E H O F F, J. In October 1977 the plaintiff's son Charles, who was at that time a student at Columbia University, entered a training program for membership in the Holy Spirit Association for the Unification of World Christianity, also known as the Unification Church. Within a month the plaintiff's son left the program and eventually returned home, where he remained until January 9, 1978, when he took his own life.

The plaintiff, believing that the Unification Church and the Collegiate Association for the Research of Principles, also known as C.A.R.P., the church's alleged recruiter, were responsible for his son's suicide, instituted this action.

All causes of action against C.A.R.P. were dismissed on or about October 7, 1981, and those causes of action are not in issue on this appeal. Our concern on this appeal is with the causes of action pleaded against the Unification Church.

The amended complaint, which is the subject of this appeal, pleads four causes of action against the Unification Church.

In his first cause of action, the plaintiff alleges a claim for intentional infliction of emotional distress on behalf of his deceased son's estate. The second cause of action alleges a claim for wrongful death, also on behalf of the decedent's estate. The complaint also asserts causes of action on the plaintiff's own behalf to recover damages for intentional infliction of emotional distress, and to recover damages for wrongful death.

Special Term dismissed the plaintiff's cause of action to recover damages for intentional infliction of emotional distress on his own behalf. However, the court denied those branches of the appellant's motion which were to dismiss the three remaining causes of action against the Unification Church.

For the reasons that follow, the appellant's motion to dismiss should have been granted in its entirety, and the plaintiff's amended complaint dismissed insofar as it is asserted against the appellant.

Our Court of Appeals recently "concluded that the Unification Church has religion as its 'primary' purpose inasmuch as much of its doctrine, dogmas, and teachings and a significant part of its activities are recognized as religious" (Matter of Holy Spirit Assn. for Unification of World Christianity v Tax Comm. of City of N.Y., 55 NY2d 512, 518). That being so, the First Amendment to the United States Constitution prohibits the courts of this State from evaluating the Unification Church's religious beliefs (Serbian Eastern Orthodox Diocese v Milivojevich, 426 US 696, 713, reh denied 429 US 873). Stated otherwise, it is not for us to approve or disapprove of the church's beliefs.

However, although it is well established that freedom of religious belief is absolute, freedom to act, even in the name of religion "remains subject to regulation for the protection of society" (Cantwell v Connecticut, 310 US 296, 303-304; Reynolds v United States, 98 US 145, 166-167; Matter of Holy Spirit Assn. for the Unification of World Christianity v Rosenfeld, 91 AD2d 190, 197, appeal denied 63 NY2d 603). Thus, a church may be held liable for intentional tortious conduct on behalf of its officers or members, even if that conduct is carried out as part of the church's religious practices (Turner v Unification Church, 473 F Supp 367, 371-372, affd 602 F2d 458; Van Schaick v Church of Scientology of California, Inc., 535 F Supp 1125, 1134).

With that principle in mind, the plaintiff claims that the Unification Church committed the tort of intentional infliction of severe emotional distress upon his son. In Fischer v Maloney (43 NY2d 553, 557), the Court of Appeals described that tort as follows:



"An action may lie for intentional infliction of severe emotional distress 'for conduct exceeding all bounds usually tolerated by decent society' (Prosser, Torts [4th ed], §12, p 56). The rule is stated in the Restatement, Torts 2d, as follows: 'One who by extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to another is subject to liability for such emotional distress' (§46, subd [1]; see for one aspect Comment d: 'Liability has been found only where the conduct has been so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community')".

In evaluating the plaintiff's amended complaint to determine whether it states a cause of action for intentional infliction of emotional distress, "the Court must assume that its allegations are true (Denihan Enterprises v O'Dwyer, 302 NY 451, 458), and must deem the complaint to allege whatever can be imputed from its statements by fair and reasonable intendment \*\*\* The test of the sufficiency of a complaint is whether it gives sufficient notice of the transactions, occurrences, or series of transactions or occurrences intended to be proved and whether the requisite elements of any cause of action known to our law can be discerned from its averments" (Pace v Perk, 81 AD2d 444, 449). In considering the sufficiency of the challenged causes of action, the bill of particulars is also to be taken into account (Nader v General Motors Corp., 25 NY2d 560, 565).

Although we sympathize with the plaintiff for the loss of his son, we find that his amended complaint, together with his bill of particulars, as a matter of law, fail to allege conduct so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community (Fischer v Maloney, supra at p 557).

In his amended complaint, the plaintiff alleges that the defendant Unification Church subjected the decedent to "highly programmed behavioral control techniques in a controlled environment thereby narrowing his attention and causing him to go into a trance. He was subjected to an intense fasting from foods and beverages, a program of chanting and related activities". The plaintiff further alleges that the defendant church sought and succeeded in exercising a "form of hypnotic control, sometimes called 'brainwashing'". The plaintiff claims that as a direct result of this "intensive program", the decedent suffered an "emotional breakdown".

The bill of particulars further describes the "intensive, heavy and protracted" program of exercises as including long hikes and group exercises. The form of information control exercised over the decedent consisted of isolating the decedent from "all information about himself or others which would cause him to question the activities of the Unification Church. This would include access to printed, aural and visual media, access to any area or people outside the training camp, and limited or monitored access to friends and family through telephone calls". The plaintiff's bill of particulars also makes reference to confessions, lectures, and highly structured work and study schedules.

The amended complaint also alleges that an affiliate member of C.A.R.P., with the knowledge and consent of the offices and directors of C.A.R.P., purposefully set out to recruit the decedent to become a member and employee of the Unification Church knowing that he was at that time "emotionally disturbed". The bill of particulars describes the "emotional disturbance" from which the decedent was suffering as "confusion and depression".

As we have stated earlier, the United States Constitution guarantees that a church may practice its religious beliefs without judicial interference, provided, of course, that in so doing it does not commit tortious conduct. From the record before us it is clear that one of the beliefs of the Unification Church is that its recruits should undergo a vigorous program of physical and mental training. Assuming all of the allegations in the plaintiff's complaint and bill of particulars to be true, the conduct of the Unification Church described therein, which the church utilizes in carrying out that belief, does not give rise to liability for intentional infliction of emotional distress.

The conduct of the defendant Unification Church as described in the plaintiff's amended complaint and bill of particulars, which the plaintiff seeks to classify as tortious, constitutes common and accepted religious proselytizing practices, e.g., fasting, chanting, physical exercises, cloistered living, confessions, lectures, and a highly structured work and study schedule. To the extent that the plaintiff alleges that the decedent was "brainwashed" as a result of the church's program, this claim must be viewed in the context of the situation as a whole, i.e., as a method of religious indoctrination that is neither extreme nor outrageous when it is considered that the subjects of the so-called "brainwashing" are voluntarily participating in the program, and the various activities mentioned above, which allegedly induced the "mind control", are not considered by our society to be beyond all possible bounds of decency.

In his memorandum of law in opposition to the appellant's motion to dismiss the amended complaint, the plaintiff claims that the Unification Church knew that the decedent was "emotionally

disturbed" and "susceptible to forced employment" when he was recruited into the program. As noted earlier, in his bill of particulars, the plaintiff described the decedent's "emotional disturbance" as "confusion and depression".

This fact does not make the proselytizing conduct of the appellant any more extreme or outrageous, for it is not uncommon for those who are confused and depressed to seek guidance from a religion, and to submit themselves to the dictates of that religion in an effort to solve their problems.

The plaintiff has failed to demonstrate that the recruitment and indoctrination techniques used by the appellant, which are similar to those used by a number of other organizations "go beyond all possible bounds of decency, and [are] to be regarded as atrocious, and utterly intolerable in a civilized community" (Fischer v Maloney, *supra*, at p 557).

It is important to note that no facts are set forth which would warrant the conclusion that the plaintiff's decedent was falsely imprisoned by the appellant or that he was subjected to any form of violence, or physical or mental torture, as such. The claim of brainwashing is based upon the activities heretofore described, which, as previously noted, are commonly used by religious and other groups, and are accepted by society as legitimate means of indoctrination. They are not classifiable as so extreme or outrageous, or offensive to society, as to incur liability therefor.

In Molko v Holy Spirit Assn. (Calif. Superior Ct., San Francisco, Dept. No. 3, Oct. 20, 1983 [Pollack, J.]), the California Superior Court was faced with a suit brought against the Unification Church by two young adults after they had terminated their relationship with the church. Their claims against the church were similar to those made by the plaintiff here. Summary judgment was granted to the defendant church dismissing the complaint. In granting such relief, the California court wrote:

"[A]n adult who is not shown to be gravely disabled must have the personal and individual right to determine for himself or herself whether to associate with a religious group. Despite the possibility of coercive persuasion, or brainwashing, 'the right of the individual to make such choices is so important that it cannot be removed absent a showing of grave disability \*\*\* [Otherwise], in order to avoid potential liability, neither the Church nor any other association could ever rely upon a person's agreement to join, and the individual's ability to consent to join would be severely compromised

\* \* \*

What is 'systematic manipulation' [of social influences] to some may be the only true outlook to others" (slip opn at pp 19-22).

Like the plaintiffs in the Molko case, the plaintiff's son, who was not gravely disabled, had the personal and individual right to determine for himself whether to associate with the defendant church, and neither he nor his distributees may recover damages because, in an effort to solve his emotional problems, he chose to subject himself to the church's discipline, which included accepted practices designed to persuade him to adopt the church's religious beliefs.

Regarding the plaintiff's causes of action to recover damages for wrongful death against the Unification Church, these too should be dismissed. A cause of action to recover damages for wrongful death may only be brought by the decedent's personal representative on behalf of all of the distributees of the decedent.

EPTL 5-4.1(1) provides in relevant part that:

"The personal representative, duly appointed in this state or any other jurisdiction, of a decedent who is survived by distributees may maintain an action to recover damages for a wrongful act, neglect or default which caused the decedent's death against a person who would have been liable to the decedent by reason of such wrongful conduct if death had not ensued \*\*\* When the distributees do not participate in the administration of the decedent's estate under a will appointing an executor who refuses

to bring such action, the distributees are entitled to have an administrator appointed to prosecute the action for their benefit".

By bringing the causes of action to recover damages for wrongful death on behalf of the decedent's estate, and on behalf of the plaintiff, individually, the plaintiff has failed to state a proper cause of action to recover damages for wrongful death. A cause of action to recover damages for wrongful death should be brought on behalf of the decedent's distributees.

Special Term inferred from the plaintiff's allegations that, since he was the administrator of his son's estate, and he was the father of the decedent, that "it is apparent" that the plaintiff is a distributee of the estate. However, there is no specific allegation in the complaint that the plaintiff is a distributee. Under EPTL 4-1.1, a surviving parent is only a distributee if there is no surviving spouse or issue. Moreover, a wrongful death action in New York must be brought by the appointed personal representative on behalf of all of the distributees, not just a single distributee who comes forward and elects to commence an action on his own behalf.

What is more, both wrongful death and survival actions require that the defendant have committed some underlying wrongful action against the decedent (see, EPTL 5-4.1; EPTL 11-3.2[2][b]; Chong v New York City Tr. Auth., 83 AD2d 546). In the case at bar, the underlying cause of action asserted by the plaintiff was to recover damages for intentional infliction of emotional distress. Since we have found that the plaintiff has failed to state a cause of action in that regard, it follows that the plaintiff cannot succeed on any claim of wrongful death.

For all of the above-stated reasons, we find that the plaintiff's amended complaint fails to state a cause of action against the Unification Church. Therefore, the order should be reversed insofar as appealed from and the plaintiff's amended complaint dismissed in its entirety.

LAZER, J.P., THOMPSON and KUNZEMAN, JJ., concur.



**MOLKO v. HOLY SPIRIT ASS'N FOR UNIFICATION**

817

Cite as 224 Cal.Rptr. 817 (Cal.App. 1 Dist. 1986)

aside the dismissal of cross-defendant Bussey and subsequently dismissing Bussey with prejudice, on whatever ground, are void. We need not discuss the trial court's reliance on section 581, subdivision (d) [formerly (4)], in its dismissal for abandonment.

[3] In its return, real party Bussey raises for the first time an issue that Cal-Vada stipulated it would proceed against Bussey on its cross-complaint to its final resolution. Bussey argues that, assuming trial had not commenced, Cal-Vada's dismissal of Bussey without prejudice under section 581 was in contravention of this stipulation.

The stipulation was one reached to abate the action in Alameda County Superior Court. However, Bussey mischaracterizes the stipulation by asserting it is an agreement by Cal-Vada to proceed against Bussey on the merits to final judgment in the Placer County action. The stipulation says no such thing. It states: "The undersigned parties hereby stipulate that the court may enter its order abating the above entitled action pending final resolution of the complaint for declaratory relief entitled *U.S. Fire Insurance Company v. Cal-Vada Aircraft, Inc. et al.*, pending in the Superior Court of the State of California for the County of Placer, case number 65279, or a period of 2 and 1/2 years from the date of filing of the complaint in this action, whichever is less."

The stipulation merely sets forth that the abatement of the Alameda County action may take effect "pending final resolution of the complaint for declaratory relief...." Such final resolution could entail any number of possible actions and outcomes; the stipulation does not compel Cal-Vada to pursue its cross-complaint against cross-defendant Bussey to final judgment.

out prejudice and its order dismissing Bussey with prejudice.

CARR, J., concurs.

SIMS, Associate Justice.

I do not read the thoughtful majority opinion as reaching the question whether the order of summary adjudication entered in this action would be given effect in any subsequent action filed by plaintiff. With that understanding, I concur in the opinion.



David MOLKO, Plaintiff,  
Cross-defendant and  
Appellant;

Tracy Leal, Plaintiff and Appellant,

v.

HOLY SPIRIT ASSOCIATION FOR the  
UNIFICATION OF WORLD CHRIS-  
TIANITY et al. Defendants, Cross-com-  
plainants and Appellants.

HOLY SPIRIT ASSOCIATION FOR the  
UNIFICATION OF WORLD CHRIS-  
TIANITY et al., Cross-complainants  
and Appellants.

v.

Neil MAXWELL, et al.,  
Cross-defendants and  
Respondents.

AO25338, AO20935.

Court of Appeal, First District,  
Division 2.

March 31, 1986.

**DISPOSITION**

Let a peremptory writ of mandate issue commanding the superior court to vacate both its order setting aside the voluntary dismissal of cross-defendant Bussey with-

Former members of religious organiza-  
tion brought action against organization,  
alleging fraud and deceit, intentional inflic-  
tion of emotional distress and false impris-  
onment. One former member asserted

cause of action for restitution for monetary gift allegedly obtained by organization through exertion of undue influence. Organization filed cross complaint against former member and two nonmembers, alleging that their deprogramming activities violated civil rights of organization and its members, and also asserted claim for indemnity against one nonmember. The San Francisco Superior Court, Stuart R. Pollak, J., entered summary judgment for organization on complaint and dismissed organization's cross complaint against former member, and the Court, Ira A. Brown, Jr., J., dismissed organization's cross complaint against nonmembers, and former members appealed and organization appealed. The Court of Appeal, Kline, P.J., held that: (1) First Amendment precluded consideration of testimony of psychologist and psychiatrist that sophisticated indoctrination techniques employed to induce recruits to join organization destroyed their capacity to exercise free will and judgment; (2) First Amendment precluded former member who made gift on basis of religious beliefs from challenging validity of gift; and (3) religious organization had standing to bring civil rights actions on behalf of members.

Affirmed in part; reversed in part.

#### 1. Constitutional Law §84.5(7)

In determining whether allegedly fraudulent statements made by representatives of religious bodies are entitled to protection of First Amendment, statements must be viewed in light of doctrines of that religion. U.S.C.A. Const. Amend. 1.

#### 2. Evidence §555.2

Expert testimony may be excluded altogether where based on matters which may not reasonably be relied upon. West's Ann. Cal. Evid. Code § 801(a, b).

#### 3. Constitutional Law §84.5(7)

In determining whether alleged misrepresentations of religious organization and failure to at first disclose organization's affiliation was material or induced former members reliance, First Amendment precluded consideration of testimony of psychologist and psychiatrist that so-

phisticated indoctrination techniques employed to induce former members to join religious organization destroyed their capacity to exercise free will and judgment in former members' action against religious organization alleging fraud and deceit, particularly where former members admitted they joined organization for reasons independent of organization's formal affiliation and conceded religious character of alleged misrepresentations. U.S.C.A. Const. Amend. 1.

#### 4. Fraud §58(1)

Evidence that members of religious organization, knowing falsity of their representation, told former members that meetings to which they were invited were with group of community-minded persons who maintained farm for recreational purposes, failing to disclose that meetings were with members of religious organization and were for purpose of isolating and indoctrinating newly recruited persons, was insufficient to establish that religious organization engaged in fraud and deceit, where, within two or three weeks of first contact with group, and before formally joining religious organization and engaging in its work, former members were informed of organization's affiliation and did not seek to leave organization, but remained active in organization's affairs.

#### 5. Constitutional Law §84.5(7)

Fact that organization is bona fide religious organization does not render conduct of organization entirely immune from government restriction. U.S.C.A. Const. Amend. 1.

#### 6. Constitutional Law §84.5(7)

First Amendment precluded consideration of testimony of psychologist and psychiatrist that sophisticated indoctrination techniques employed to induce recruits to join religious organization destroyed recruits' capacity to exercise free will and judgment in determining whether religious organization's fraudulent representations and alleged use of mind control techniques caused recruits severe emotional distress. U.S.C.A. Const. Amend. 1.

**MOLKO v. HOLY SPIRIT ASS'N FOR UNIFICATION**

**819**

Cite as 224 Cal.Rptr. 817 (Cal.App. 1 Dist. 1986)

**7. Damages §50.10**

Elements of prima facie case of intentional infliction of emotional distress are outrageous conduct by defendant, intention to cause or reckless disregard of probability of causing emotional distress, severe emotional suffering and actual and proximate causation of emotional distress.

**8. Damages §50.10**

Techniques used by religious organization to recruit and indoctrinate former members, including alleged threats of divine retribution if members left religious organization, were neither so indecent nor so beyond limits of social toleration as to provide necessary element of outrageous conduct so as to state prima facie case against religious organization for intentional infliction of emotional distress, where former members joined organization and remained members out of desire to satisfy certain personal needs, former members were not compelled to join, and members were at all times free to maintain contact with nonmembers and to end their involvement with organization and repudiate its teachings. U.S.C.A. Const.Amend. 1.

**9. Constitutional Law §84.5(7)**

Threats of divine retribution are protected by First Amendment and cannot form basis for claim of intentional infliction of emotional distress. U.S.C.A. Const. Amend. 1.

**10. Constitutional Law §90.1(1)**

Threats of social ostracism are protected by First Amendment. U.S.C.A. Const. Amend. 1.

**11. False Imprisonment §5**

In order to establish false imprisonment, confinement must be effected either by force or fear of force on part of victim. West's Ann.Cal.Penal Code § 236.

**12. False Imprisonment §2**

Consent of victim is immaterial in action for false imprisonment, absent confinement by force or threat of force. West's Ann.Cal.Penal Code § 236.

**13. False Imprisonment §20(1)**

Allegation that religious organization employed mind control techniques and used threats of divine retribution to prevent for-

mer members from leaving organization were insufficient to state cause of action against religious organization for false imprisonment, where former members were never seized or restrained physically. U.S. C.A. Const.Amend. 1; West's Ann.Cal.Penal Code § 236.

**14. Constitutional Law §84.5(7)**

First Amendment precluded former member of religious organization who made gift to organization on basis of religious beliefs he no longer held from challenging validity of gift. U.S.C.A. Const. Amend. 1.

**15. Pleading §193(5)**

Demurrer should not be sustained where pleading, liberally construed, states cause of action on any theory.

**16. Pleading §225(2)**

Sustaining demurrer without leave to amend is generally abuse of discretion, unless complaint shows that complaint is incapable of amendment.

**17. Civil Rights §13.6**

Fact that religious organization was not individual person did not preclude organization from suing under civil rights statute [42 U.S.C.A. § 1985(3)].

**18. Civil Rights §13.6**

Members of religious organization had standing to sue in their own right for alleged violation of constitutionally guaranteed right to travel under 42 U.S.C.A. § 1985(3), religious organization's interest in protecting members' rights to freely travel in exercise of religious activities was germane to religious organization's purpose of worship and engaging in related religious activities and religious organization's claim, seeking only injunctive relief to prevent nonmembers from continuing their efforts to kidnap and deprogram members, did not require participation of individual members, and thus, religious organization had standing to bring suit on behalf of members under 42 U.S.C.A. § 1985(3).

**19. Civil Rights §13.6**

Fact that religious organization was not individual person did not preclude religious organization from bringing state civil

rights claims under West's Ann.Cal.Civ. Code §§ 51.7, 52. West's Ann.Cal.Civ.Code § 14.

#### 20. Civil Rights ⇐13.6

Religious organization was entitled to bring state civil rights action on behalf of its members pursuant to West's Ann.Cal.C. C.P. § 367.

#### 21. Civil Rights ⇐13.10

Religious organization's claims under Federal Civil Rights statute [42 U.S.C.A. § 1985(3)] and state civil rights statutes [West's Ann.Cal.Civ.Code §§ 51.7, 52] were not precluded by any statute of limitations, where religious organization abandoned any claims for money damages and sought to file second amended cross complaint seeking injunctive relief only as to alleged ongoing conspiracy among defendants.

Kelly, Leal & Olimpia, Stanley F. Leal, Sunnyvale, for appellants: Molko et al.

Friedman, Sloan & Ross, Jeffrey S. Ross, San Francisco, for appellants: Holy Spirit Ass'n et al.

Shapiro & Shapiro, Carl B. Shapiro, Alys-worth C. Green, San Anselmo, for respondents: Maxwell and Alexander.

KLIN, Presiding Justice.

These cases present two general questions: (1) whether, consistent with the free exercise clause of the First Amendment, former members of a religious organization can maintain causes of action against that organization for fraud and deceit, intentional infliction of emotional distress and false imprisonment and can claim restitution for financial contributions made to the organization; and (2) whether the religious organization can maintain a cross-complaint against a former member and other per-

sons for violation of its civil rights under federal and state statutes.

These appeals arise out of one action in the superior court and have been consolidated on this court's own motion for decision herein. In No. A025338 plaintiffs David Molko and Tracy Leal appeal from a summary judgment entered in favor of defendants Holy Spirit Association for the Unification of World Christianity and New Education-Development Systems, Inc. (hereafter collectively referred to as "the Unification Church" or "the Church").<sup>1</sup> Also in No. A025338, the Unification Church cross-appeals from a judgment of dismissal entered after the sustaining of a demurrer without leave to amend as to its amended cross-complaint against Molko. In No. A020935, the Unification Church appeals from a judgment of dismissal entered after the sustaining of demurrers without leave to amend as to its amended cross-complaint against cross-defendants Neil Maxwell and Joseph Alexander, Sr.

We conclude that the court below properly granted summary judgment in favor of the Unification Church on the complaint and affirm that judgment. We also conclude, however, that the trial court erroneously sustained the demurrers to the Church's cross-complaint against Molko, Maxwell and Alexander without leave to amend. Consequently, we reverse the judgments of dismissal entered in favor of those parties.

#### I. Introduction

Molko and Leal are former members of the Unification Church, a religious organization which follows the teachings of the Reverend Sun Myung Moon.<sup>2</sup> While members of the Church, they were on separate occasions forcibly abducted from public

1. While these two organizations are apparently separate entities, differentiation between them is unnecessary for purposes of these appeals.

2. The Unification Church "is one of more than 120 national Unification Churches throughout the world propagating a common religious message under the spiritual guidance of the Reverend Sun Myung Moon, the Unification movement's founder and prophet. The Church was

organized as a California nonprofit corporation in 1961, and since 1975 has maintained its headquarters in New York City." (*Holy Spirit v. Tax Comm.* (1982) 55 N.Y.2d 512, 519, 450 N.Y.S.2d 292, 435 N.E.2d 662.) The Church's description of its history, doctrine, dogmas and teachings is set forth in the opinion just cited at pp. 524-525, 450 N.Y.S.2d 292, 435 N.E.2d 662.

**MOLKO v. HOLY SPIRIT ASS'N FOR UNIFICATION**

**821**

*Cite as 224 Cal.Rptr. 817 (Cal.App. 1 Dist. 1986)*

streets by third parties and persuaded to relinquish their belief in and association with the Church. Thereafter, on July 25, 1980, they filed the instant complaint, alleging that they had been fraudulently induced to join the Unification Church through a variety of deceptive tactics on the part of some of its members. Plaintiffs each asserted causes of action for fraud and deceit, intentional infliction of emotional distress and false imprisonment. Molko also alleged a cause of action for restitution of a \$6,000 gift assertedly obtained by the Church through the exertion of undue influence.<sup>3</sup>

On April 7, 1982, the Church filed a first amended cross-complaint against Molko, Maxwell and Alexander, as well as against other cross-defendants not involved in these appeals. The cross-complaint was based essentially upon what the Church refers to as "deprogramming" activities, the conspiring to kidnap and actual kidnap of members of the Church by non-believers for purposes of forcing those members to abandon their religious beliefs and to terminate their association with the Church. Claims for violation of the civil rights of the Church and its members were asserted against all three of these cross-defendants under federal and state civil rights statutes. (42 U.S.C., § 1985(3); Civ. Code, §§ 51.7 and 52.) Additionally, a claim for full or partial indemnity was asserted against Maxwell, alleging that any damages for which the Church were liable to Molko had been caused, in whole or in part, by Maxwell, who had kidnapped and "deprogrammed" Molko.

**II. The Appeal of Molko and Leal from the Grant of Summary Judgment to the Church.**

On May 26, 1983, the Church filed a motion for summary judgment or, in the

alternative, for summary adjudication of issues as to plaintiff Leal, and filed a separate similar motion as to plaintiff Molko. Insofar as relevant to the present appeal, the Church urged in support of its motions that plaintiffs had not relied upon any misrepresentations of Church members which proximately resulted in any damage of which plaintiffs complained; that any misrepresentations or failure to disclose Church members' religious affiliation, or other conduct of which plaintiffs complained, was protected by the First Amendment and could not form the basis of a claim for fraud or intentional infliction of emotional distress; that the conduct alleged in support of the claim for emotional distress was not outrageous; that plaintiffs had not been subject to any involuntary confinement which would support a claim for false imprisonment; and that plaintiffs consented to participate in all conduct which they claim caused them distress or damage. Additionally, as to plaintiff Molko, the Church urged that his claims for fraud and intentional infliction of emotional distress were barred by the statute of limitations; and that the Church was entitled to judgment on his claim for restitution of a gift because the evidence demonstrated that he made the \$6,000 contribution because of his then existing religious beliefs.

Although Molko and Leal purport to argue in their briefs that the trial court erred in granting summary judgment because there are triable issues of fact as to each cause of action, the record and briefs herein demonstrate that, with a minor exception which we deem immaterial (see *infra*, p. 822, fn. 5), the facts regarding the occurrences giving rise to this law suit are essentially undisputed for purposes of the motion for summary judgment.<sup>4</sup> It is,

3. The complaint set forth additional causes of action which were abandoned prior to the entry of judgment and have no relevance on appeal.

4. In its brief, the Church noted this lack of dispute as follows: "The facts set forth are appellants' version of the events which must necessarily be accepted for purposes of summary judgment. Had the matter gone to trial, respondents would have vigorously contested many of

these suppositions [...] however, as the [trial] court concluded, even on the appellants' version of the facts, no viable causes of action could be stated." The facts before the trial court at the time of the hearing on the motion for summary judgment were supported by declarations and references to extensive discovery responses.

rather, the legal consequences flowing from those facts which are in dispute. We will summarize the facts with respect to each plaintiff separately.

*Facts as to Plaintiff David Molko*

David Molko arrived in San Francisco in December 1978. A 27-year-old graduate of Temple University School of Law, he had recently taken and passed the July 1978 examination for admission to the Pennsylvania bar. He had come to San Francisco thinking that he might try to find a job or take the California bar examination. He was quite uncertain about his future at that time.

In January 1979, Molko was approached by Mark Bush and Ernest Patton at a bus stop in San Francisco. They told him they were involved with a group called the Creative Community Project which was interested in certain environmental issues. When Molko inquired about the associational ties of the group, he was told it was composed of an "international community" of professionals who lived together and often discussed world events and topics of interest to the community. Molko asked whether the group had any religious affiliation and was told that it did not. Bush and Patton invited Molko to dinner that evening at the group's house on Bush Street in San Francisco.

Molko attended the dinner, where there appeared to be a number of guests such as himself. Molko was not allowed to have any conversation with the other guests and was spoken to constantly by members of the group during dinner and after a lecture that followed. After viewing a slide show of a farm in Booneville apparently operated by the group, he was invited to spend a weekend there and was told a bus was leaving that evening. Molko was interested and agreed to go. Prior to boarding the bus to Booneville, Molko signed a form, setting forth his name, address and telephone number.<sup>5</sup> At Booneville Molko learned that the group derived its teach-

ings from the Reverend Sun-Myung Moon and many other different philosophers. There was at that time no mention of the Unification Church or "Moonies". Molko was at all times free to leave Booneville and knew that buses returning to San Francisco left daily. He saw no evidence that anyone else was being restrained at Booneville against his or her will.

During the week of January 29, 1979, Molko visited another group site known as "Camp K." It was during this visit that Molko first learned that his new associates were all followers of the Unification Church and Reverend Moon. He nevertheless remained with the organization. Molko spent approximately five to seven weeks at Camp K. He was not physically restrained there and knew he was free to leave.

Thereafter Molko returned to San Francisco and participated in Church activities such as fund-raising and "witnessing" (recruiting new persons to join the Church). On April 6, 1979, Molko made a donation of \$6,000 to the Church. At Church expense, Molko attended a bar review course at Hastings Law School. He took the California bar examination in July 1979. On July 26, 1979, upon leaving the last session of the bar examination, Molko was forcibly abducted by two persons and persuaded to relinquish his belief in the Church. His association with the Unification Church terminated at that time.

*Facts as to Plaintiff Tracy Leal*

On or about June 7, 1979, Tracy Leal, then 19 years of age, was traveling by bus from her home in Santa Clara County to visit Humboldt State University, where she was considering enrolling as a student. This trip required a bus transfer in San Francisco. While at the San Francisco bus depot, Leal was approached by a Unification Church member named Collette Zielinski, who said she was waiting for a friend

5. The Church claims that this form identified the program at Booneville as being associated with the Unification Church, while Molko claims that it did not. Due to the conclusions

which we reach in this opinion, this factual dispute is immaterial to the Church's entitlement to summary judgment.

**MOLKO v. HOLY SPIRIT ASS'N FOR UNIFICATION**

**823**

*Cite as 224 Cal.Rptr. 817 (Cal.App. 1 Dist. 1986)*

arriving from Switzerland. Leal remarked that she loved to ski and had always wanted to go to Switzerland. Zielinski said her friend was a skier and suggested Leal might want to meet her.

Leal and Zielinski were then joined by another Unification Church member, Bradford Parker. Zielinski and Parker told Leal about the house in San Francisco where they lived with a group of people calling themselves the Creative Community Project who engaged in various good works, such as providing food to the poor. Leal asked Zielinski and Parker if this group were "some religious thing" and told them that if it were she did not want to get involved. Parker responded that members of the group "all come from different religious backgrounds."

Leal accepted an invitation to dinner that evening at the Bush Street house. After the meal she listened to a lecture and viewed a slide show of a farm in Booneville. The Creative Community Project was the only organization identified that evening. Neither the Unification Church nor Reverend Sun Myung Moon were mentioned.

At the end of the evening Leal accepted an invitation to attend a weekend "seminar" at the Booneville farm. Like Molko, she signed a form prior to the trip to Booneville which she asserts contained no mention of the Unification Church. Although the seminar was to be held over the entire weekend, Leal was told she could return to San Francisco at any time.

On her second day at Booneville, Leal asked a co-director named Joshua whether the group was the "Moonies." He responded "No, but we are a form of Christian group, but we don't really want to drive anyone away. So we are trying not to scare people away who might not be Christians. So we are just kind of keeping quiet about it for a while."

On or about June 11, 1979, Leal visited another Northern California encampment of the group, known as "Camp K," with several people from Booneville. On or about June 24, while at Camp K, Leal again inquired whether members of the group

were "Moonies" and was told they were not. Later that evening, Parker, Zielinski and another woman told Leal that the group did follow some of the teachings of Reverend Moon.

On June 29, 1979, Leal was finally informed of the true nature of the organization. She was told that group members belonged to the Unification Church and followed the teachings of Reverend Moon. Leal did not seek to leave the group upon learning these facts.

On approximately September 1, 1979, Leal flew with other Church members to Boulder, Colorado, where she spent the next month attending lectures, hiking and praying. From there she went to Los Angeles where she engaged in fund-raising by soliciting contributions door-to-door. She usually engaged in this activity alone, voluntarily returning at the end of each day to the Church facility where she was living. On or about October 29, 1979, Leal was abducted from a street in Los Angeles by persons hired by her family and was persuaded to abandon her faith in the Church. Leal's association with the Unification Church terminated at that time.

**A. Fraud and Deceit**

[1] With respect to their claims for fraud and deceit, Molko and Leal each alleged, in essence, that specified members of the Unification Church, knowing the falsity of their representations, told them that meetings to which they were invited were with a group of community-minded persons who maintained a farm near Booneville for recreational purposes. The true facts were that the initial meetings each plaintiff participated in were with members of the Unification Church and were for the purpose of isolating and indoctrinating newly recruited persons. Plaintiffs did not learn that defendants were attempting to induce them to join the Unification Church until the indoctrination program had effectively commenced. As a result of defendants' fraud and deceit, plaintiffs were induced to join the Church and work long hours to further its purposes without material rec-



ompense. Had plaintiffs known the actual facts, neither would have accepted invitations to the initial meetings, attended the farm in Booneville, or joined the Unification Church.

A motion for summary judgment "shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." (Code Civ. Proc., § 437c, subd. (c).) Due to the "drastic nature of the procedure and the importance of safeguarding the adverse party's right to a trial, the moving party must make a strong showing." (6 Witkin, Cal. Procedure (3d ed. 1985) Proceedings Without Trial, § 285, p. 585.) "In determining whether the papers show that there is no triable issue as to any material fact the court shall consider all of the evidence set forth in the papers ... and all inferences reasonably deducible from such evidence, except summary judgment shall not be granted by the court based on inferences reasonably deducible from such evidence, if contradicted by other inferences or evidence, which raise a triable issue as to any material fact." (Code Civ. Proc., § 437c, subd. (c).<sup>6</sup>) We examine the trial court's grant of summary judgment on plaintiffs' causes of action for fraud, and all other causes of action, bearing this standard in mind.<sup>7</sup>

"The elements of fraud, which give rise to the tort action for deceit, are (1) misrepresentation (false representation, concealment or non-disclosure); (2) knowledge of falsity (or 'scienter'); (3) intent to defraud, i.e., to induce reliance; (4) justifiable reliance; and (5) resulting damage." (4 Witkin, Summary of Cal. Law (8th ed. 1974)

6. The word "deducible" was substituted for the word "deductible," which appeared in the statute at the time defendants' motion for summary judgment was made, by a 1983 amendment to Code of Civil Procedure section 437c, subdivision (c). That amendment is obviously without substantive significance.

7. The Church argues that, pursuant to *Reader's Digest Assn. v. Superior Court* (1984) 37 Cal.3d 244, 208 Cal.Rptr. 137, 690 P.2d 610, summary judgment should be deemed a "favored remedy" and viewed under a standard more favorable to the Church in this case because it involves the

Torts, § 446, p. 2711, and authorities there cited.) With respect to the element of justifiable reliance, it must be shown that the misrepresentation or non-disclosure was "an immediate cause of [the plaintiffs'] conduct which alters his legal relations," and that without such representation "he would not, in all reasonable probability, have entered into the contract or other transaction." (Id., at § 472, p. 2732, quoting *Spinks v. Clark* (1905) 147 Cal. 439, 444, 82 P. 45.)

Molko and Leal insist that, with respect to their claims of fraud and deceit, "the central issues of fact" that remain to be reviewed are the truth or falsity of the representations made to them by members of the Unification Church and the intent of those who made the representations. We cannot agree. Though it ultimately ruled against them, the trial court resolved these questions in favor of plaintiffs either explicitly or by necessary implication. Thus, the trial court agreed that members of the Church "did not originally disclose that they were affiliated with the Unification Church or Reverend Moon, and there is evidence that they affirmatively misrepresented that fact, particularly to Ms. Leal." The record also clearly demonstrates that, as Molko and Leal contend, the misrepresentations were made to induce plaintiffs to associate with their recruiters, who feared plaintiffs would reject their overtures if their affiliation with the Unification Church or Reverend Moon were first made known.

The only genuine issue with respect to the claims of fraud and deceit is whether there is a triable issue of fact as to whether

exercise of First Amendment rights. That such support can be found in *Reader's Digest* is questionable since the California Supreme Court was there concerned only with "defamation cases involving the issue of 'actual malice' under the *New York Times* standard", which requires proof by clear and convincing evidence rather than a preponderance of evidence. (Id., at p. 252, 208 Cal.Rptr. 137, 690 P.2d 610.) In any event, we need not reach this issue here since we determine that pursuant to the traditional standard the trial court properly granted summary judgment with respect to all causes of action.

MOLKO v. HOLY SPIRIT ASS'N FOR UNIFICATION

825

Cite as 224 Cal.Rptr. 817 (Cal.App. 1 Dist. 1986)

er Molko and Leal justifiably relied upon the false representations initially made to them. We agree with the trial court that this question does not present a triable issue of fact.

Preliminarily, the evidence is uncontroverted that within two or three weeks of their first contact with the group initially identified as the Creative Community Project, and before formally joining the Unification Church, and engaging in its work, both Molko and Leal were informed of its affiliation with Reverend Moon. Neither sought to leave the Church and both remained active in Church affairs long after becoming familiar with Reverend Moon's teachings.

Plaintiffs endeavor to avoid the seemingly fatal consequences of these undisputed facts by alleging that during the brief period before the truth was revealed to them agents of the Church had gained control of their minds, thereby rendering them incapable of resisting the inducements to join the Church and work diligently to further its purposes. Plaintiffs contend, in other words, that they justifiably relied on representations they knew to be untrue because those who made the false representations first stripped them of independent judgment. This theory, which is central not only to plaintiffs' cause of action for fraud and deceit but, as we shall see, to the remaining causes of action as well, rests entirely on the declarations of Dr. Margaret Singer, a psychologist, and Dr. Samuel Benson, a psychiatrist.

Dr. Singer states in her declaration that she had interviewed approximately 260 persons who were or had been connected with the Unification Church of Sun Myung Moon, which she identified as a "cult."<sup>8</sup> She found a striking resemblance between the methods of recruitment and control used by "the cults" and those used on some Americans imprisoned during the Korean War whom she had also interviewed. According to Dr. Singer, recruiters for the Unification Church engage in "systematic

manipulation of the social influences" surrounding the potential recruit to the extent that the recruit loses the capacity to exercise his or her own free will and judgment.

Dr. Singer examined both Molko and Leal in connection with their recruitment and indoctrination into the Unification Church, and their experiences with "that cult." She found that the deceptive practices for both recruitment and "psychological confinement" of Molko and Leal were typical of those systematically utilized by the Unification Church. As a result of the "tremendously sophisticated" indoctrination techniques employed by Unification Church members, Molko and Leal were both assertedly rendered incapable of exercising their own will and judgment and were unable to respond to the fact that they had been deceptively recruited by "Moonies," with whom they would not otherwise have freely associated. Dr. Singer further found that Molko and Leal each suffered emotional distress as a result of being manipulated and as a result of the fact that they complied with the requirements placed upon them to deceive others in either fund-raising or recruitment activities on behalf of the Unification Church. Dr. Singer did not specify what factual information obtained from Molko and Leal led her to reach these conclusions.

Dr. Benson, in his declaration, stated that he had treated a significant number of patients suffering from psychological disorders secondary to their connection with "various cults," such as the Unification Church. He stated that he had found the recruitment and indoctrination methods of the Unification Church—which he, like Dr. Singer, described without elaboration as "the systematic manipulation of social influence[s]"—frequently result in the recruit being "persuasively coerced" into actions and activities in which he would not engage in the free exercise of his own will and intellect. Dr. Benson further stated that studies of methods employed by Chi-

8. The "distinguishing criteria" of "cults" set forth by Dr. Singer are described *infra* at foot-

note 12.

nese communists under Mao Tse-tung reveal indoctrination techniques substantially similar to those used by the Unification Church and other cults.

Dr. Benson, who also interviewed Molko and Leal, found both to be so effectively coerced by the systematic manipulation employed as to be under control of their recruiters. He concluded that they were rendered incapable of exercising their own will and judgment by the time they learned that their recruiters were acting on behalf of the Unification Church. Dr. Benson also concluded that Molko and Leal had both lost the judgment capacity to leave the Church and suffered emotional distress as a result of the methods employed by their recruiters. Like Dr. Singer, Dr. Benson did not indicate what, if any, specific factual information obtained from Molko and Leal supported his conclusions.

The trial court refused to permit the foregoing expert testimony to be used to establish any triable issue of fact.

Among other things, the court found that the testimony of Dr. Singer and Dr. Benson conflicted with that of plaintiffs themselves with respect to the significance of the Church's initial deception. Thus, in a lengthy order granting summary judgment, the court specifically found that the misrepresentations of the Church and its failure to at first disclose its affiliation with Reverend Moon "cannot be deemed material or to have induced either Plaintiff reasonably to have relied upon them. Plaintiffs' own testimony eliminates any triable issue of fact in this regard." Referring to the testimony of plaintiffs at deposition, the trial court observed that, "[b]y their own admissions, Plaintiffs agreed to join the group because their association satisfied personal concerns and anxieties both were experiencing." The admissions that they joined the group for reasons which were not dependent upon its formal affiliations were buttressed, the court

found, by the fact that "when [plaintiffs] learned the group was part of the Unification Church, they did not leave or attempt to leave, although they knew they might have done so. Their actions reflect that it was not their unawareness of defendant's affiliation that caused them to stay."

The trial court refused to permit plaintiffs to rely on the opinions of Dr. Singer and Dr. Benson not only for the foregoing evidentiary reasons,<sup>9</sup> but as well on constitutional grounds. In this latter regard the trial court relied upon *Katz v. Superior Court* (1977) 73 Cal.App.3d 952, 141 Cal. Rptr. 234.

In *Katz*, the Court of Appeal was confronted with the testimony of a psychiatrist and a psychologist, very similar to that presented here, seeking to establish that the Unification Church engaged in "coercive persuasion" or "brainwashing" to gain the allegiance of recruits to the Church. In that case, parents of five young adult members of the Church had obtained orders from the superior court appointing them temporary conservators of the persons of their children. The parents contended their children had been subjected to "coercive persuasion" through methods such as "food deprivation; sleep deprivation; isolation; the use of fear tactics; the use of guilt feelings; and indoctrination." (*Id.* at p. 972, 141 Cal. Rptr. 234.) The *Katz* court was unwilling to inquire into the merits of these assertions, reasoning that "[w]hen the court is asked to determine whether that change was induced by faith or by coercive persuasion is it not in turn investigating and questioning the validity of that faith? At the same time the trier of fact is asked to adjudge the good faith and bona fideness of the beliefs of the conservatees['] preceptors. If it be assumed that certain leaders were using psychological methods to proselytize [*sic*] and hold the allegiance of recruits to the church or cult, call it what we will, can it be said

9. In addition to finding that the opinions of the two experts conflicted with plaintiffs' own testimony, the trial court also noted that: "Both doctors examined the Plaintiffs long after the events in question. They did not reach their opinions concerning Plaintiffs' state of mind

based upon a contemporaneous examination independent of their views of Unification Church methods, but seem to have reasoned backwards from their disapproval of those methods to the conclusion that Plaintiffs were not thinking freely because they were persuaded by them."

MOLKO v. HOLY SPIRIT ASS'N FOR UNIFICATION

827

Cite as 224 Cal.Rptr. 817 (Cal.App. 1 Dist. 1986)

their actions were not dictated by faith merely because others who engaged in such practices have recanted?" (*Id.* at pp. 987-988, 141 Cal.Rptr. 234, fn. omitted.)<sup>10</sup>

In overturning the orders appointing conservators, the *Katz* court concluded that in the absence of actions rendering the adult believers "gravely disabled," as defined by statute,<sup>11</sup> the processes of the state could not be used to interfere with the acts of the Church and its members without impinging upon the First Amendment right to free exercise of religion. (*Id.* at pp. 988-989, 141 Cal.Rptr. 234.)

Molko and Leal seek to distinguish *Katz* on several grounds. They emphasize, first, that in *Katz* the individual right to religious freedom was asserted by then members of the Unification Church, not by the Church itself, and that *Katz* therefore does not speak to the ability of the Church to utilize the free exercise clause to prevent former members from subjecting its acts to judicial scrutiny. It is additionally contended that the holdings of *Katz* should be limited to the context of conservatorship proceedings because the "gravely disabled criteria" set forth in the Welfare and Institutions Code were central to the decision in that case. We are unimpressed by these efforts to constrain the meaning of *Katz*. Although, to be sure, it was the "recruits" who in that case sought to protect the right to religious freedom while here it is the

"preceptors" who advance that right, the applicable principles are the same. Those fundamental principles are by no means limited to the unique facts of *Katz* or to conservatorship proceedings.

The trial court correctly discerned that the analysis in *Katz* is pertinent to the determination whether, consistent with the free exercise clause of the First Amendment, the indoctrination methods of the Unification Church (described in *Katz* as "coercive persuasion" and here as "the systematic manipulation of social influences") may be the subject of judicial scrutiny; that is, whether the methods assertedly employed by the Church to induce submission to its precepts are within the domain of religious belief, and therefore immune from scrutiny, or instead represent a form of action that may be restricted by the courts. As we have noted, the court in *Katz* held that evidence that healthy adults were induced to join the Church and to change their life style as a result of "brainwashing" rather than by religious faith could not be considered because the evaluation of such evidence necessarily requires the exercise of judgment as to the validity of that faith. (*Id.* at pp. 987-988, 141 Cal. Rptr. 234.)

The evidence proffered in the instant case presents precisely the same problem. Pejoratively characterizing the Unification Church as a "cult,"<sup>12</sup> and suggesting that

10. We do not understand this statement to mean that a court cannot under any circumstances pass on the question of whether members of a religious organization honestly and in good faith believed assertedly fraudulent representations. Such a judicial inquiry can be undertaken to the extent that the truth of religious doctrines or beliefs is withheld from the trier of fact. (*United States v. Ballard* (1944) 322 U.S. 78, 64 S.Ct. 882, 88 L.Ed. 1148.)

11. See Welfare and Institutions Code section 5008, subdivision (h), defining "gravely disabled" as, inter alia, a condition in which a person is unable, as a result of a mental disorder, to provide for his basic personal needs for food, clothing or shelter.

12. According to Dr. Singer, the "distinguishing criteria" of "cults" are the following: "Cult leaders are self-appointed messianic persons who claim to have special missions in life, which they claim have been given to them because

they are unique. The veneration of the group form is directed toward the leader rather than toward God or abstract principles such as might be done in other kinds of organizations. Usually the cults have a double set of ethics in that a cult member is open and honest within the cult but learns that it is all right to deceive non-members. .... [¶] The cults tend to be authoritarian in their power structure, in contrast to the wider society of democracy in which we live. Cults also tend to be totalistic in the sense that they prescribe down to the tiniest detail how one should communicate with other members in the groups, non-members, the precise activities in which they should engage, etc."

It deserves to be noted that there is disagreement about the proper definition of the religious "cult" among many who have studied the phenomenon from a scientific perspective. (Compare, e.g., Stark & Bainbridge, *Of Churches, Sects and Cults: Preliminary Concepts for a Theory of Religious Movements*, 18 Jour.

its purposes are not authentically religious,<sup>13</sup> plaintiffs' experts essentially seek to establish that the "tremendously sophisticated" indoctrination techniques employed to induce Molko and Leal to join the Unification Church destroyed their capacity to exercise free will and judgment. However, the scientific perspective of plaintiffs' experts ignores the religious aspect of the Church's teachings and the spiritual nature of its hold on its members. To this extent, the evidence supplied by these experts disregards the testimony of plaintiffs themselves and is incompatible with plaintiffs' position in this lawsuit. Molko and Leal not only concede "the bona fides of the Unification Church's religious beliefs,"<sup>14</sup> but acknowledge that, like other members of the Church, they sincerely adopted those beliefs. Additionally, plaintiffs effectively concede the religious character of the alleged misrepresentations. Thus, for example, Leal testified during discovery that she "believed that Moon was the Messiah and in some manner it was important to unite with him; and if the only way to do that was to join the Church, fine, do it, and it's worth any deceit that had to be spoken or done." Plaintiffs' experts may not be permitted to isolate certain representations of the Church and treat them as non-religious; for in determining whether allegedly fraudulent statements made by representatives of religious bodies are entitled to the protection of the First Amendment the state-

ments must be viewed in the light of the doctrines of that religion." (*Christofferson v. Church of Scientology, Etc.* (1982) 57 Or.App. 203, 239, 644 P.2d 577, 600, cert. den. (1983) 459 U.S. 1206, 103 S.Ct. 1196, 75 L.Ed.2d 439 and 459 U.S. 1227, 103 S.Ct. 1234, 75 L.Ed.2d 468.)

[2-4] It would be entirely possible for a trial court to accept the view of Dr. Singer and Dr. Benson that Molko and Leal did not willingly submit to the religious teachings of the Unification Church because the psychological techniques of the Church deprived them of the ability to reason critically and make independent judgments, and to conclude, accordingly, that there is a triable issue of fact in this regard; but it would not be possible for a trial court to reach this result without questioning the authenticity and the force of the Unification Church's religious teachings and permitting a jury to do likewise, which is constitutionally forbidden. (*United States v. Ballard, supra*, 322 U.S. 78, 87, 64 S.Ct. 882, 886; *Founding Church of Scientology v. United States* (D.C.Cir. 1969) 409 F.2d 1146, 1159, cert. den., 396 U.S. 963, 90 S.Ct. 434, 24 L.Ed.2d 427; *Van Schaick v. Church of Scientology of Cal., Inc.* (D.Mass. 1982) 535 F.Supp. 1125, 1142-1145.) The idea that religious doctrine can be (or, as some would have it, invariably is) manipulatively employed to subvert reason—which, it may be noted, is an idea that

for the Sci. Study of Religion 117 (1979) and Martin, *A Definition of Cult: Terms and Approaches*, in Fichter (ed.) *Alternatives to American Mainline Churches* (1983) pp. 27-42.) Moreover, "not all religious scholars or psychologists agree with popular writers that cults always have had unwholesome effects on their members." (Pavlos, *The Cult Experience* (1982) p. 4; see also Shupe & Bromley, *The New Vigilantes: Deprogrammers, Anti-Cultists, and the New Religions* (1980).) In any event, as a noted sociologist has pointed out, the "cult" remains a "vague and unsatisfactory concept." (Eister, *Culture Crises and New Religious Movements: A Paradigmatic Statement of a Theory of Cults*, in Zaretsky & Leone (eds.) *Religious Movements in Contemporary America* (1974) p. 613.)

13. Dr. Singer declares that "usually" the "only two real purposes" of cults are "fundraising and recruiting other members."

14. It may be noted in this connection that federal and state courts in addition to the one in Katz have recognized that the primary purpose of the Unification Church is religious and that its beliefs are protected under the free exercise clause of the First Amendment. As stated by one federal court, "the Unification Church, by any historical analogy, philosophical analysis, or judicial precedent . . . must be regarded as a bona fide religion." (*Unification Church v. I.N.S.* (D.D.C.1982) 547 F.Supp. 623, 628, fn. omitted; accord, *Holy Spirit v. Tax Comm., supra*, 55 N.Y.2d 512, 518-519, 450 N.Y.S.2d 292, 435 N.E.2d 662; see also, *Larson v. Valente* (1982) 456 U.S. 228, 102 S.Ct. 1673, 72 L.Ed.2d 33; *Ward v. Connor* (4th Cir. 1981) 657 F.2d 45, cert. den. (1982) 455 U.S. 907, 102 S.Ct. 1253, 71 L.Ed.2d 445; *Troyer v. Town of Babylon* (E.D.N.Y.1980) 483 F.Supp. 1135, 1137, affd. 628 F.2d 1346, affd. 449 U.S. 988, 101 S.Ct. 522, 66 L.Ed.2d 285.)

# MOLKO v. HOLY SPIRIT ASS'N FOR UNIFICATION

829

Cite as 224 Cal.Rptr. 817 (Cal.App. 1 Dist. 1986)

has been used to condemn all religions as issue of fact and that such a triable issue  
deceptively exploitive of certain universal did not otherwise appear, were correct.  
human needs (see, e.g., Freud, *The Future*

*of an Illusion* (1927))—is one we may en-  
ertain as individuals but which the First  
Amendment forbids us to consider as  
judges. Embodied in this constitutional  
prohibition is not simply a recognition of  
the value of the religious sensibility in its  
inevitably diverse and often conflicting  
forms, but as well an acknowledgement of  
the powerlessness of the law, to compass  
the powerlessness of reason, and therefore  
the mystery of religious faith. As Justice  
Douglas has stated, freedom of religious  
belief “embraces the right to maintain the-  
ories ... which are rank heresy to follow-  
ers of the orthodox faiths. Heresy trials  
are foreign to our Constitution. Men may  
believe what they cannot prove. They may  
not be put to the proof of their religious  
doctrines or beliefs. Religious experiences  
which are as real as life to some may be  
incomprehensible to others. Yet the fact  
that they may be beyond the ken of mor-  
tals does not mean that they can be made  
suspect before the law.” (*United States v.*  
*Ballard*, *supra*, 322 U.S. 78, 86-87, 64  
S.Ct. 882, 886.) Thus, from the point of  
view of the law, the opinions of plaintiffs’  
experts are neither true nor false. As the  
trial court observed, these opinions are sim-  
ply “veiled value judgments concerning the  
entire outlook of the Unification Church.”<sup>15</sup>  
The court’s conclusions that such opinions  
could not be employed to create a triable

[5] We do not, of course, mean to sug-  
gest that because it is a bona fide religious  
organization the conduct of the Unification  
Church is, as are its beliefs, entirely im-  
mune from government restriction. As  
emphasized by the United States Supreme  
Court in *Cantwell v. Connecticut* (1940)  
310 U.S. 296, 60 S.Ct. 900, 84 L.Ed. 1213,  
and reiterated in *Katz*, “Nothing we have  
said is intended even remotely to imply  
that, under the cloak of religion, persons  
may, with impunity, commit frauds upon  
the public. Certainly penal laws are avail-  
able to punish such conduct. Even the  
exercise of religion may be at some slight  
inconvenience in order that the state may  
protect its citizens from injury. Without a  
doubt a State may protect its citizens from  
fraudulent solicitation by requiring a  
stranger in the community, before permit-  
ting him publicly to solicit funds for any  
purpose, to establish his identity and his  
authority to act for the cause which he  
purports to represent. The State is like-  
wise free to regulate the time and manner  
of solicitation generally, in the interest of  
public safety, peace, comfort or conve-  
nience.” (*Cantwell v. Connecticut*, *supra*,  
310 U.S. at pp. 306-307, 60 S.Ct. at 904, fn.  
omitted; *Katz v. Superior Court*, *supra*,  
73 Cal.App.3d 952, 987, fn. 13, 141 Cal.  
Rptr. 234, and cases there cited.)

The beguiling and very intensive recruit-  
ing methods of the Unification Church,

15. In this regard, the trial court pointed out that  
“[t]he danger of relying upon value judgments  
disguised as expert psychiatric opinion has been  
recognized in various contexts. See, e.g., *Smith*  
*v. Schlesinger* (D.C.Cir.1975) 513 F.2d 462, 474-  
475, and authorities cited at p. 475, fn. 45;  
Wexler, *Forward: Mental Health Law and the*  
*Movement Toward Voluntary Treatment* (1974)  
62 Cal.L.Rev. 671, 673; Ennis & Litwack, *Psychi-*  
*atry and the Presumption of Expertise: Flipping*  
*Coins in the Courtroom* (1974) 62 Cal.L.Rev. 693,  
726-729. While the limitations of expert testi-  
mony as a means of evaluating an individual’s  
state of mind more typically have been con-  
sidered in upholding the fact finder’s right to  
reject the expert’s opinion, e.g., *Mills v. Kopf*  
(1963) 216 Cal.App.2d 780, 785-786, [31 Cal.  
Rptr. 80], expert testimony may be excluded

altogether if based on matters which may not  
reasonably be relied upon. Evidence Code sec-  
tion 801(b), and Law Revision Commission  
Comment thereto. See, e.g., *People v. Luis*  
(1910) 158 Cal. 185, 195 [110 P. 580]; *Roscoe*  
*Moss Co. v. Jenkins* (1942) 55 Cal.App.2d 369  
[130 P.2d 477]; *Long v. Cal-Western States Life*  
*Ins. Co.* (1955) 43 Cal.2d 871 [279 P.2d 43]; 1  
Ziskin, *Coping with Psychiatric and Psychologi-*  
*cal Testimony* vii (3d ed. 1981). It has also been  
suggested that opinions in this area are not  
sufficiently beyond common experience to war-  
rant expert testimony. Evidence Code section  
801(a). See Morse, [*Crazy Behavior, Morals and*  
*Science: An Analysis of Mental Health Law*  
(1978)] 51 So.Cal.L.Rev. [527] at pp. 558-560.”

which appear primarily directed at those young people who are most emotionally impressionable and vulnerable, seem objectionable to us, as doubtless they do to most disinterested observers. Nonetheless, there is no evidence, and indeed it is not even claimed, that plaintiffs were induced to join and remain with the Church through the use or the threat of force or through other unlawful conduct or that plaintiffs were physically harmed during the recruitment process. Thus, we are not presented with such a substantial threat to public safety, peace or order that the state, through the judicial process, may intervene and impose liability based upon mental health experts' opinions of the methods employed by members of a valid religious organization to impress their ideas upon mentally competent adults. (Compare *Meroni v. Holy Spirit Ass'n for Unification* (1984) 125 Misc.2d 1061, 480 N.Y.S.2d 706 [claim for emotional distress where it was alleged that Church members knew recruit was already emotionally disturbed could survive motion to dismiss].) If liability could be imposed in such circumstances, any disaffected adherent of a religion could bring suit alleging that he had been "brain-washed" by the religious organization, and courts would become entangled in determining which former adherents acted out of true faith and which were subject to "mind control." This is a result clearly at odds with the First Amendment. "The judicial eye cannot penetrate the veil of the church for the forbidden purpose of vindicating the alleged wrongs of excised members; when they became members they did so upon the conditions of continuing or not as they and their churches might determine, and they thereby submit to the ecclesiastical power and cannot now invoke the supervisory power of the civil tribunals."

16. Since we have determined that plaintiffs did not rely upon the initial failures to disclose the Church's affiliation in joining and remaining with the Church, and that the proffered evidence of "mind control" in the circumstances of this case cannot constitutionally be used to negate the evidence that plaintiffs acted voluntar-

(*Watson v. Jones* (1871) 80 U.S. (13 Wall.) 679, 20 L.Ed. 666; see also *Serbian Orthodox Diocese v. Milivojevic* (1976) 426 U.S. 696, 713, 96 S.Ct. 2372, 49 L.Ed.2d 151; *Kedroff v. St. Nicholas Cathedral* (1952) 344 U.S. 94, 73 S.Ct. 143, 97 L.Ed. 120.)<sup>16</sup>

#### B. Intentional Infliction of Emotional Distress

[6] Molko and Leal contend that defendants' fraudulent representations and use of mind control techniques caused them severe emotional distress. In support of these contentions they rely primarily upon the declarations of Dr. Singer and Dr. Benson. For reasons just described, which we need not reiterate, these opinions cannot constitutionally be employed to impose liability upon the Church.

Additionally, Molko and Leal contend that they suffered emotional distress through threats of harm. In her answers to interrogatories Leal described as follows the threats of harm she experienced: "death, illness, pain and suffering, disease of all possible sorts were believed to befall anyone who left the movement and including family, regardless of their love of God in a Christian manner." Molko similarly described the threats of harm he experienced: "constant expression of how important it was not to leave the church because it was spiritually devastating, in that, people became ill, they experienced difficulty in dealing with people and/or their jobs. That people had died after leaving the church with a clear indication that there was a positive correlation between leaving the church and either becoming ill or dying in a rather peculiar way."

[7] The elements of a prima facie case of intentional infliction of emotional dis-

ily in so joining and remaining after having knowledge of the identity of the Church, we need not consider the Church's argument that the failure to disclose the identity or affiliation of their organization in recruiting new members can never, consistent with the First Amendment, constitute actionable misrepresentations.



MOLKO v. HOLY SPIRIT ASS'N FOR UNIFICATION

831

Cite as 224 Cal.Rptr. 817 (Cal.App. 1 Dist. 1986)

gress are (1) outrageous conduct by the defendant, (2) intention to cause or reckless disregard of the probability of causing emotional distress, (3) severe emotional suffering and (4) actual and proximate causation of the emotional distress. (*Newby v. Alto Riviera Apartments* (1976) 60 Cal. App.3d 288, 131 Cal.Rptr. 547; Rest.2d Torts, § 46.) "The conduct must be outrageous, i.e., beyond all bounds of decency; ordinary rude or insulting behavior is not enough to justify an award of damages." (4 Witkin, Summary of Cal. Law (8th ed. 1974) Torts, § 234, p. 2515.)

[8] The trial court held that "[w]hatever value judgments one may place upon the Church's methods, Defendants' conduct was not extreme and outrageous in the sense required to support such a cause of action under California law. See, e.g., *Cortez v. Macias* (1980) 110 Cal.App.3d 640, 651-653 [167 Cal.Rptr. 905]; *Fuentes v. Perez* (1977) 66 Cal.App.3d 163 [136 Cal. Rptr. 275]; *Alcorn v. Ambro Engineering, Inc.* (1970) 2 Cal.3d 493, 497-499 [86 Cal. Rptr. 88, 468 P.2d 216]."

We find nothing in the record that compels us to disagree with this conclusion. As the evidence indicates and as the trial court found, plaintiffs joined the Unification Church and remained members out of the desire to satisfy certain personal needs each was then experiencing. There is no competent evidence either plaintiff was compelled to join the Church or prevented from leaving. To the contrary, plaintiffs were at all times free to maintain contact with non-members, as they did, and to end their involvement with the Church and repudiate its teachings, as eventually they also did. The techniques used to recruit and indoctrinate plaintiffs, which are not materially different from those employed by other organizations (see, e.g., *Christof-*

*erson v. Church of Scientology, Etc., supra*, 57 Or.App. 203, 211-227, 644 P.2d 577, 584-591), are neither so indecent nor so beyond the limits of social toleration that they provide the necessary element of outrageous conduct. (*Ibid.*)

[9,10] Additionally, the threats of which plaintiffs complain are those of divine retribution. Such threats, certainly not unique to the Unification Church, are protected by the First Amendment and cannot form the basis for a claim of intentional infliction of emotional distress.<sup>17</sup> (See *Fowler v. Rhode Island* (1953) 345 U.S. 67, 70, 73 S.Ct. 526, [court cannot regulate or control sermons]; see also *Van Schaick v. Church of Scientology of Cal., Inc., supra*, 535 F.Supp. 1125, 1139 [exhortations to sever family and marital ties and depend solely on church for emotional support will not support claim for infliction of emotional distress—"They are similar to the demands for single-minded loyalty and purpose that have characterized numerous religious ... movements over the ages."].) If threats of this sort were actionable, litigation against religious entities by former believers would be unconstrained and rampant. Such a result, however, is precluded by the First Amendment.

C. False Imprisonment

[11] Molko alleges he was falsely imprisoned by defendants at Camp K near Healdsburg, the farm in Booneville and various locations in San Francisco. Leal alleges she was falsely imprisoned at Camp K; the farm in Booneville; Boulder, Colorado; Los Angeles; and various locations in San Francisco. Both allege that such false imprisonment had been accomplished by threats of harm to them and their families, deprivation of sleep and psychological manipulation.

17. In response to plaintiffs' suggestion that they were also prevented from leaving the Church by their fear of disappointing other Church members, the trial court correctly observed that threats of social ostracism are not impermissi-

ble and, indeed, are also constitutionally protected. (*NAACP v. Claiborne Hardware Co.* (1982) 458 U.S. 886, 102 S.Ct. 3409, 73 L.Ed.2d 1215.)

False imprisonment is defined as "the unlawful violation of the personal liberty of another." (Pen. Code, § 236; see *Parrott v. Bank of America* (1950) 97 Cal.App.2d 14, 22, 217 P.2d 89 [definition of crime and tort the same].) "The tort of false imprisonment is the nonconsensual, intentional confinement of a person, without lawful privilege, for an appreciable length of time, however short." (*City of Newport Beach v. Sasse* (1970) 9 Cal.App.3d 803, 810, 88 Cal.Rptr. 476 [citations omitted].) The confinement must be effected either by force or fear of force on the part of the victim. In the absence of force, the victim must feel "compelled to obey because he fears harm or injury," and his apprehension must be not unreasonable under the circumstances. (*People v. Martinez* (1984) 150 Cal. App.3d 579, 599-600, 198 Cal.Rptr. 565.)

[12] The trial court found that "neither Plaintiff was falsely imprisoned as conventionally understood," noting that both had acknowledged they were never physically seized or restrained physically. In fact, during the period of his alleged imprisonment, Molko commuted to a bar review course. Both plaintiffs acknowledge they were not physically restrained, but contend they were imprisoned by fraud and deceit and prevented from leaving because of the use of mind control techniques by defendants.

Plaintiffs rely upon *Parnell v. Superior Court* (1981) 119 Cal.App.3d 392, 173 Cal.Rptr. 906 for the proposition that consent of the victim is not a defense where the consent is induced by coercion or deception. On this basis they argue that their consent to remain on various premises owned or maintained by the Church is no defense to their claim because such consent was deceptively induced by mental coercion.

In *Parnell* the defendant was charged with the kidnapping and false imprisonment, lasting eight years, of a seven-year-old boy. This court held there both that there was sufficient circumstantial evi-

dence that the detention was effected by threat of force and that consent of the victim is no defense where the consent is induced by coercion or deception. (*Parnell v. Superior Court, supra*, 119 Cal.App.3d 392, 409, 173 Cal.Rptr. 906.) Putting aside the facts that *Parnell* involved a child of tender years and that the imposition of criminal liability sustained in that case did not threaten the exercise of First Amendment rights, our decision there did not eliminate force or threat of force as an element of false imprisonment. Thus if there is no confinement by force or threat of force, the issue of consent does not even arise.

[13] Here, the only evidence of force or threats of force which plaintiffs seek to rely upon are the "mind control" testimony of Dr. Singer and Dr. Benson and threats of divine retribution. As we have explained, such evidence may not in the circumstances of this case be used to create a triable issue of fact. Consequently, the award of summary judgment on this cause of action, as on the causes of action for fraud and deceit and intentional infliction of emotional distress, was proper.

#### D. Molko's Claim for Restitution

[14] Molko bases his claim for restitution of the \$6,000 which he contributed to the Church upon his allegations of being fraudulently induced to join the Church and of domination and control by defendants by use of threats, deprivation of sleep, excessively long hours of work and other activities, and psychological manipulation.

The trial court reviewed Molko's deposition testimony regarding the circumstances of his making the contribution: "I was told that it was tax time and that the church was in desperate need of funds, and that it would be most—that the Heavenly Father would really appreciate, and really look favorably on seeing me give the money to the church." He had been fasting in Booneville before making the gift, but only for "a day or two." He was asked to travel to

# MOLKO v. HOLY SPIRIT ASS'N FOR UNIFICATION

833

Cite as 224 Cal.Rptr. 817 (Cal.App. 1 Dist. 1986)

San Francisco, which he did by himself; then "Got to San Francisco and was presented with the fact—oh, we are desperately in need of money. Tax time is coming up. Can you help us?—The Heavenly Father is asking you to help us."

One of the Church members in whom Molko had the greatest confidence told him she "thought I should do what I thought was best" and "was pretty much leaving it up to me."

While Molko contributed \$6,000 to the Church, he was told that the Church would, as it did, pay for his tuition for the bar review course. His explanation for giving and then receiving back a portion of the money was: "That you gave God money and then God used your money rather than you using your money, and it worked better that way. In other words you gave your money to God and then God can distribute your money. And that way, the spiritual world can work for you." He also testified that at the time of making the gift he accepted that proposition.

Molko further testified that although he had some misgivings after agreeing to transfer the money, he did not ask to have it returned because: "I really believed that there was [sic] evil forces lurking around. And that if I disturbed the spiritual world enough, that something could happen. I believed that. And therefore, I felt a terrible sense of guilt and fear to ask for something that I had supposedly given to God." Molko revealed that he had other funds (amounting to "several thousand" dollars) which were available to him while he was a member of the Church, the existence of which he did not disclose to defendants. Referring to these funds, he stated: "I drew the line.... They [the funds] were quite under my control, but they stayed where they were." The trial court correctly determined that no triable issue of fact had been raised as to the question of undue influence.

Molko's own uncontroverted description of the circumstances under which he made

the gift demonstrates that he did so out of a then held religious belief. The only evidence he has attempted to rely upon in support of a contrary view are misrepresentations made to him which he claims fraudulently induced him to join the Church and the "mind control" evidence of the two experts. As set forth earlier, the trial court justifiably determined that there was no reliance upon fraudulent misrepresentations and ruled correctly that, in the circumstances of this case, the testimony of Dr. Singer and Dr. Benson may not constitutionally be used to create a triable issue of fact.

A former member of a religious organization who, like Molko, made a gift on the basis of religious beliefs he no longer holds cannot challenge the validity of the gift without challenging the validity of his former beliefs. Inquiry into the reasonableness of the beliefs which prompted him to make the contribution is, however, foreclosed by constitutional guarantees of freedom of religion. (*Estate of Supple* (1966) 247 Cal.App.2d 410, 414-415, 55 Cal.Rptr. 542, cert. den. (1967) 389 U.S. 820, 88 S.Ct. 37, 19 L.Ed.2d 70 [court cannot examine the validity or reasonableness of religious beliefs of testator], citing *United States v. Ballard, supra*, 322 U.S. 78, 64 S.Ct. 882 and *People v. Woody* (1964) 61 Cal.2d 716, 726, 40 Cal.Rptr. 69, 384 P.2d 813.

"Once it is conceded that [F]irst [A]mendment values are unacceptably compromised when civil courts undertake to settle religious issues, it becomes clear that allowing a legal determination about property or some other secular matter to turn on a court's answer to a religious question represents a path fraught with peril: the path is one along which unsatisfied former believers could drag the civil courts into the theological thicket by the simple expedient of suing for a refund of their prior donations to a religious organization....

[T]he existence of dissidents is a pervasive fact of religious life; their role within religious organizations can be the healthy one of spurring continuing introspection and re-examination of doctrine. But it is not hard to imagine what would occur if

each potential dissenter were told: contributing to a religious organization—your own or indeed that of a group you reject—will give you a judicial platform from which to air your religious differences with others and potentially win a favorable verdict; all you need do in order to overcome the normal bar to civil adjudication of ecclesiastical matters is sue for a refund! [¶] Not only would such an invitation declare open season on churches and their followers; it could at the same time make at least some religious groups resist the very attempt to solicit donations, while inducing others—those too desperate for resources to refrain from financial appeals—to rigidify their doctrines and freeze or at least conceal their own evolution for fear that doctrinal change, ordinarily immune from censorship, could trigger refund-seeking litigation. It is in part for reasons such as these that the [F]irst [A]mendment has been construed to mean that religious questions remain non-justiciable even when they do not reach civil courts independently but instead form preliminary or ancillary issues in an otherwise justiciable dispute.” (Tribe, *American Constitutional Law* (1978) pp. 874-876.) To permit Molko’s claim to go to trial on the evidence he has presented would have numerous adverse consequences for religion which the First Amendment was designed to avoid.

For the foregoing reasons, we conclude that the court below properly awarded summary judgment to the Unification Church on all plaintiffs’ causes of action.<sup>18</sup>

### III. The Appeals of the Unification Church From Judgments of Dismissal on Its Cross-Complaint

#### A. The Proceedings Below

The Church’s cross-complaint alleged a cause of action for indemnity against cross-

defendant Neil Maxwell and alleged separate causes of action under 42 U.S.C. section 1985(3) and Civil Code sections 51.7 and 52 against all three of the cross-defendants involved in these appeals, Maxwell, Joseph Alexander, Sr. and David Molko.<sup>19</sup>

Maxwell demurred to the indemnity cause of action on the basis that it failed to state a cause of action. All three cross-defendants demurred to the federal and state civil rights causes of action on the ground that the Church lacked standing to sue. Maxwell and Alexander additionally demurred to these two causes of action on the basis that they were barred by the statute of limitations.<sup>20</sup>

The trial court sustained the demurrers “on all grounds stated” without leave to amend. Thereafter the Church filed a motion for reconsideration, urging that any defects in the first amended cross-complaint could be cured by further amendment and requesting leave to file a proposed second amended cross-complaint, a copy of which was attached to its motion. The trial court denied the motion for reconsideration and judgments of dismissal were subsequently entered.

[15, 16] A general demurrer admits the truth of all material factual allegations in the complaint or, as here, cross-complaint; the question of the plaintiff’s ability to prove the allegations, or the possible difficulty in making such proof, does not concern the reviewing court; and the plaintiff need only plead facts showing that he may be entitled to some relief. (*Alcorn v. Anbro Engineering, Inc.*, *supra*, 2 Cal.3d 493, 496, 86 Cal.Rptr. 88, 468 P.2d 213, citations

18. Due to the conclusions we have reached here, we do not consider the Church’s additional contentions, set forth in footnotes to its brief, that Molko’s claims for intentional infliction of emotional distress and false imprisonment are barred by the statute of limitations.

19. Various claims were asserted against other cross-defendants who are not parties to these appeals.

20. Alexander also demurred to the federal and state civil rights causes of action on the ground that they were uncertain. He has not urged this argument on appeal in support of the judgment below and we do not consider it.

# MOLKO v. HOLY SPIRIT ASS'N FOR UNIFICATION

835

Cite as 224 Cal.Rptr. 817 (Cal.App. 1 Dist. 1986)

omitted.) A demurrer should not be sustained if the pleading, liberally construed, states a cause of action on any theory. (5 Witkin, Cal. Procedure (3d ed. 1985) Pleading, § 942, p. 377.) The general rule is that it is an abuse of discretion to sustain a demurrer without leave to amend unless the complaint shows that it is incapable of amendment. (*Berkeley Police Assn. v. City of Berkeley* (1977) 76 Cal.App.3d 931, 942, 143 Cal.Rptr. 255.) We review the sustaining of the demurrers in this action under these established principles; except that we do not review the sustaining of the demurrer with respect to the indemnity cause of action, which has been rendered moot by our earlier holding that the granting of summary judgment to the Unification Church was proper.

## B. Standing of the Church to Assert Claims Under 42 U.S.C. Section 1985(3)

[17] The Church alleged that, as a result of their class-based animus toward the Church and its members, the cross-defendants had conspired to deprive the Church

and its members of the equal protection of the laws and of "equal privileges and immunities under the laws."<sup>21</sup> The allegations against Maxwell, Alexander and Molko were essentially the same, with the exception of the identity of their co-conspirators and the Church members who were allegedly kidnapped in furtherance of the conspiracy.<sup>22</sup> It was alleged that the cross-defendants' purpose was, inter alia, to prevent members of the Church from freely exercising their religious beliefs through interstate travel. The cross-complaint alleged that an injunction was required to prevent cross-defendants from continuing their efforts to kidnap and "deprogram" members of the Church. It also sought compensatory and punitive damages. The Church has abandoned the contention urged in the court below that it may assert a claim for violation of its own right and that of its members to free exercise of religion under 42 U.S.C. section 1985(3), but still contends it has representational standing to assert a violation of its members' constitutionally guaranteed right to travel.<sup>23</sup>

Cross-defendants initially respond that the Church cannot have representational

damages occasioned by such injury or deprivation, against any one or more of the conspirators."

21. 42 U.S.C. section 1985(3) provides: "If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of

22. It was alleged that Maxwell participated in a conspiracy to kidnap David Molko. Alexander and Molko were alleged to have participated in a conspiracy to kidnap a Church member named Brenna Steinberg.

23. In *Carpenters v. Scott* (1983) 463 U.S. 825, 830, 103 S.Ct. 3352, 3356, 77 L.Ed.2d 1049, the Supreme Court held that an alleged conspiracy to infringe First Amendment rights is not a violation of section 1985(3) unless it is proved that the state is involved in the conspiracy or that the aim of the conspiracy is to influence the activity of the state. The Court recognized, however, that, in accordance with its earlier decision in *Griffin v. Breckenridge* (1971) 403 U.S. 88, 91 S.Ct. 1790, 29 L.Ed.2d 338, section 1985(3) reaches purely private conspiracies aimed at depriving persons of the right to travel guaranteed by the federal Constitution. (*Carpenters v. Scott*, *supra*, 463 U.S., at pp. 832-833, 103 S.Ct. at 3358.) The Court also declined to pass on whether section 1985(3) reaches conspiracies other than those motivated by racial bias. (*Id.*, at p. 835, 103 S.Ct. at 3359.) The

standing under section 1985(3) because only a "person" can sue under that statute. This argument is simply erroneous. The right of an organization to sue under the statute has repeatedly been recognized. (See, e.g., *N.A.A.C.P. v. Detroit Police Officers Ass'n., Etc.* (E.D.Mich. 1981) 525 F.Supp. 1215, 1218; *Vietnamese, Etc. v. Knights of K.K.K.* (S.D.Tex. 1981) 518 F.Supp. 993, 1000; see also *Chico Fem. Women's Hlth. Cr. v. Butte Glenn Med. S.* (E.D.Cal. 1983) 557 F.Supp. 1190, 1194, fn. 6.)

[18] Cross-defendants next claim that the Church fails to meet the standing requirements for an association set forth by the Supreme Court in *Hunt v. Washington Apple Advertising Comm'n.* (1977) 432 U.S. 333, 343, 97 S.Ct. 2434, 2441, 53 L.Ed.2d 383: "[A]n association has standing to bring suit on behalf of its members when: (a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit."<sup>24</sup> (See also *Warth v. Seldin* (1975) 422 U.S. 490, 511, 515, 95 S.Ct. 2197, 2211, 2213, 45 L.Ed.2d 343. In our view, the Church has met this standard.

Unquestionably, Church members would have standing to sue for the alleged viola-

Fourth Circuit, however, noting that "the lower federal courts have, almost without exception, extended the coverage of the statute [section 1985(3)] to religious groups [citations]," has expressly held that a conspiracy against the Unification Church motivated by religious discrimination falls within the ambit of section 1985(3). (*Ward v. Connor, supra*, 657 F.2d 45, 48; see generally Annot., Civil Liability for "Deprogramming" Member of Religious Sect (1982) 11 A.L.R. 4th 228.)

24. Since we determine that the Church has met this standard, we need not address the Church's contention that a more lenient state law standard (see *Stocks v. City of Irvine* (1981) 114 Cal.App.3d 520, 531-533, 170 Cal.Rptr. 724) governs the issue of standing in this case.

tion of 42 U.S.C. section 1985(3) in their own right. Further, the Church's interest in protecting its members' rights to freely travel in the exercise of their religious activities is germane to the Church's purpose as alleged in the cross-complaint: "The primary purpose of the church is the worship of God and engaging in related religious activities. The members of the Church constitute a recognizable group of persons who are bound together by an intellectual and spiritual nexus. Through their association, members of the Church seek to disseminate and enhance their religious beliefs through the free exchange of ideas, through interstate travel and through peaceful assembly." Thus the first two requirements of *Hunt* are met.

As to the third requirement, it does appear that the request for damages in the first amended cross-complaint would require the participation of individual members of the Church.<sup>25</sup> (See *Warth v. Seldin, supra*, 422 U.S. 490, 515-516, 95 S.Ct. 2197, 2213-2214; *R.I. Chapter, Assoc. Gen. Contractors v. Kreps* (D.R.I. 1978) 450 F.Supp. 338, 346, fn. 3.) The Church, however, sought leave to file a second amended cross-complaint in which damage claims were deleted and injunctive relief only was sought.<sup>26</sup> As this amendment would have eliminated the need for participation of individual members in the action, the trial court abused its discretion in denying leave

25. We deem frivolous Maxwell and Alexander's contention that individualized participation is required because they would defend on the ground that members of the Church are "brain-washed" and do not act of their own free will. If such a defense were available to them, they could develop it through discovery regardless whether individual members were parties to the action.

26. Injunctive relief is available under 42 U.S.C. section 1985. (*Action v. Gannon* (1971 8th Cir.) 450 F.2d 1227, 1237-1238; *Mizell v. North Broward Hospital District* (1970 5th Cir.) 427 F.2d 468, 473.)

## MOLKO v. HOLY SPIRIT ASS'N FOR UNIFICATION

837

Cite as 224 Cal.Rptr. 817 (Cal.App. 1 Dist. 1986)

to file the proposed second amended cross-complaint.<sup>27</sup>

*C. Standing of the Church to Assert Claims Under Civil Code Sections 51.7 and 52*

[19] As to the state civil rights claims, the only arguments cross-defendants advance in addition to the standing argument just discussed are that only a "person" can sue under the pertinent statutes, and that the requirement of Code of Civil Procedure section 367 that an action be prosecuted in the name of the real party in interest precludes the Church from bringing suit on behalf of its members. These arguments are without merit.

Civil Code section 14 expressly provides that the word "person" as used in that code "includes a corporation as well as a natural person."<sup>28</sup> Civil Code sections 51.7 and 52, by their language, protect the rights of "persons." Thus a corporation can maintain a cause of action under those sections.

[20] Additionally, Code of Civil Procedure section 367 has never been held to bar an association or organization from bringing suit on behalf of its members. If cross-defendants' argument were correct, such a suit could never be maintained under California law. Such suits, however, are clearly permissible and cross-defendants' contention erroneous. (See *Gay Law Students Assn. v. Pacific Tel. & Tel. Co.* (1979) 24 Cal.3d 458, 465, fn. 3, 156 Cal.Rptr. 14, 595 P.2d 592; *County of Alameda v. Carleson* (1971) 5 Cal.3d 730, 737, fn. 6, 97 Cal.Rptr. 385, 488 P.2d 953, appeal dismissed (1972) 406 U.S. 913, 92 S.Ct. 1762, 32 L.Ed.2d 112; *Residents of Beverly Glen, Inc. v. City of Los Angeles* (1973) 34 Cal.App.3d 117, 121-123, 109 Cal.Rptr. 724.)

27. We also deem frivolous Maxwell and Alexander's suggestion that the Church may not be accorded representational standing because its advocacy of its members' interests is not sincere or "bona fide." Certainly nothing in the cross-complaint or in the evidence before the trial court indicates that this is so, and this factual

*D. The Statute of Limitations*

[21] Maxwell and Alexander maintain that the Church's claims under the federal and state civil rights statutes are barred by the statute of limitations because they are subject to the one-year limitation period of Code of Civil Procedure section 340, subdivision (2) (personal injury and various other torts), rather than the three-year limitation period of section 338, subdivision 1 (action on a liability created by statute). We need not reach this issue for, as we have noted, the Church has abandoned any claims for money damages under the civil rights statutes. It seeks to file a second amended cross-complaint seeking injunctive relief only as to what it alleges to be an ongoing conspiracy among the cross-defendants. If a conspiracy is actually proved to be continuing, the action is obviously timely. If no continuing conspiracy is proven, injunctive relief will, of course, be denied.

*IV. Conclusion*

As we have determined that summary judgment was properly granted to the Unification Church, the judgment entered in its favor on the complaint is affirmed. The Church's cause of action for indemnity against Maxwell (the fourth cause of action of the cross-complaint) is thereby rendered moot.

We have also concluded that the court below abused its discretion in sustaining without leave to amend the demurrers to the Church's causes of action against Maxwell, Alexander and Molko under 42 U.S.C. section 1985(3) and Civil Code sections 51.7 and 52 (the fifth, sixth, seventh and eighth causes of action of the cross-complaint). The judgments of dismissal entered on those causes of action are therefore re-

contention has no place in an argument supporting the sustaining of a demurrer.

28. The Church alleged in its cross-complaint that it is a California nonprofit corporation. (See also, fn. 2, *ante*.)



838

224 CALIFORNIA REPORTER

versed. The court is directed to vacate its orders sustaining without leave to amend the demurrers of Maxwell, Alexander and Molko to the cross-complaint and to grant leave to the Church to file its proposed second amended cross-complaint.

ROUSE and SMITH, JJ., concur.



Steven J. BROOKS, Plaintiff, Appellant  
and Cross-Respondent,

v.

AMERICAN BROADCASTING COMPAN-  
NY and Norman Honath, Defendants,  
Respondents and Cross-Appellants.

A022412.

Court of Appeal, First District,  
Division 4.

March 31, 1986.

Certified for Partial Publication \*

Truck driver who was injured when truck went off road brought personal injury action against bus driver and his employer. The Superior Court, Alameda County, Gordon Minder and Winton McKibben, JJ., entered judgment on jury verdict in favor of bus driver and employer. Truck driver appealed and bus driver and employer cross-appealed. The Court of Appeal, Sabraw, J., held that: (1) admission requested of truck driver that truck was zero to two feet over centerline of road at

time he allegedly swerved in order to miss oncoming bus, resulting in accident, was of "substantial importance," and truck driver had no good reason for denying request, thus requiring imposition on truck driver of expenses incurred in proving truth of requested admission, but (2) truck driver's denial of request for admission that oncoming bus was not over centerline when truck driver saw its headlights, was with good reason, and thus, bus driver and employer were not entitled to recover costs of proving truth of admission.

Affirmed.

#### 1. Pretrial Procedure ¶474, 478, 485

Determination of whether there was no good reason for denial, whether requested admission was of substantial importance, and amount of expenses awarded for establishing fact denied, if any, are within sound discretion of trial court. West's Ann.Cal.C.C.P. § 2034(c).

#### 2. Pretrial Procedure ¶485

Basis for imposing sanctions for denying requested admission under § 2034(c) is not to impose penalty, but to reimburse reasonable expenses incurred by party in proving truth of requested admission where admission sought was of "substantial importance" such that trial would have been expedited or shortened if request had been admitted. West's Ann.Cal.C.C.P. § 2034(c).

#### 3. Pretrial Procedure ¶485

In order for request for admission to be of "substantial importance" so as to warrant imposing expenses of proving truth of requested admission upon party denying admission under § 2034(c), request should have at least some direct relationship to a central issue in case, i.e., an issue which, if not proven, will alter results in case. West's Ann.Cal.C.C.P. § 2034(c).

See publication Words and Phrases for other judicial constructions and definitions.

\* Parts IIIA, IIIB and IIID are not published because they do not meet the standards for publi-

cation contained in California Rules of Court, rule 976(b).

73 Cal.App.3d 952

1952 Jacqueline KATZ et al., Petitioners,

v.

The SUPERIOR COURT OF the state of  
California for the CITY AND COUNTY  
OF SAN FRANCISCO, Respondent;

Carl KATZ and Louise Katz et al.,  
Respondents and Real Parties  
in Interest.

Civ. 41045.

Court of Appeal, First District,  
Division 1.

Oct. 6, 1977.

As Modified on Denial of Rehearing  
Nov. 4, 1977.

Hearing Denied Dec. 15, 1977.

After the Superior Court, San Francisco County, S. Lee Vavuris, J., entered orders appointing one or both parents as temporary conservators of five young adults to permit "deprogramming" of the conservatees from ideas allegedly instilled by a religious cult, the conservatees petitioned for extraordinary relief in the nature of prohibition and mandamus, seeking either to prohibit continuing of the orders in force or to prohibit the respective temporary conservators from subjecting them to "deprogramming." The Court of Appeal, Sims, Acting P. J., held, inter alia: (1) the proceeding had not been rendered moot; (2) the statute under which the proceedings were instituted was unconstitutionally vague, and (3) the evidence presented in the case did not justify the appointment of conservators of the person.

Petition granted.

#### 1. Action ⇐6

Where action in which young adults sought to be freed from conservatorships for purposes of "deprogramming" them from ideas allegedly inculcated by religious cult presented issues of broad public interest which were likely to recur, court could

exercise its inherent discretion to resolve such issues even though events occurring during pendency of action would normally have rendered matter moot. West's Ann. Prob.Code, §§ 1751, 2201, 2206, 2206(a, b).

#### 2. Statutes ⇐47

Provisions of former section of Probate Code permitting appointment of conservator of person and property of adult person who, for various listed reasons, "is likely to be deceived or imposed upon by artful or designing persons" were unconstitutionally vague. West's Ann.Prob.Code, § 1751.

#### 3. Mental Health ⇐135

Evidence in proceeding for appointment of parents as conservators of young adults for purpose of "deprogramming" conservatees of ideas allegedly instilled by religious cult was insufficient to show any emergency authorizing good cause for appointment of temporary conservator. West's Ann.Prob.Code, §§ 1460, 1751, 1851; Cal. Rules of Court, rule 983; West's Ann. Civ.Code, §§ 43, 204; West's Ann.Welfare & Inst.Code, §§ 5000-5401, 5008(h).

#### 4. Constitutional Law ⇐84

It was violation of young adults' rights to religious freedom for court to appoint their parents as their temporary conservators for purposes of "deprogramming" them of ideas allegedly instilled by religious cult. West's Ann.Prob.Code, § 1751; U.S.C.A. Const. Amend. 1.

#### 5. Contempt ⇐20

Parents who had been declared temporary conservators of their adult children, who had allegedly been "brainwashed" by religious cult, would not be held in contempt of restrictions placed upon them by court where further prosecution of contempt proceedings would be apt to disrupt inter-family relations and where parents' actions were inspired by meritorious feelings of paternal devotion.

Baker & De Ome, Ralph L. Baker, Oakland, Goorjian & McCabe, Paul Mike Goorjian, Friedman & Sloan, Stanley J. Friedman, Howard, Prim, Rice, Nemerovski, Canady &

Pollak, Jerome B. Falk, Jr., Ann V. Brick, San Francisco, for petitioners; Margaret C. Crosby, Joseph Remcho, San Francisco, of counsel.

Shapiro, Shapiro & Shapiro, Carl B. Shapiro, San Anselmo, for real parties in interest.

Charles C. Marson, Margaret C. Crosby, Alan L. Schlosser, American Civil Liberties Union Foundation of Northern Cal., Inc., San Francisco, for amicus curiae.

§ SIMS, Acting Presiding Justice.

The proceedings reviewed below were instituted in this court on March 25, 1977, by a petition for extraordinary relief in the

1. The orders each provide as follows: "The Petition of [named petitioner or petitioners] for appointment as temporary conservator[s] of the person of [named conservatee], having been filed, and the matter coming on regularly for hearing on March 8, 1977, Petitioner[s] and Conservatee were personally present and represented by counsel. The court having heard and considered the evidence and arguments of counsel and, after full hearing, good cause appearing therefor,

"IT IS HEREBY ORDERED that the Petition of [named petitioner or petitioners] for appointment as temporary conservator[s] of the person of [named conservatee] is hereby granted. IT IS FURTHER ORDERED as follows:

"1. Hearing on the permanent conservatorship or further proceedings shall be heard on April 27, 1977, at 10:30 a.m. All parties shall appear at that time without further notice.

"2. During the temporary conservatorship, Conservator, or conservatee's other parent [where both appointed, reads "one conservator"] shall be present with conservatee at all times;

"3. Conservatee shall have right to be visited by, and speak with his [her] counsel at all reasonable times;

"4. Conservatee shall have access to reading material of his [her] choice;

"5. Conservator shall have the right to choose the residence of conservatee, whether inside or outside the State of California. This provision shall be stayed until 5:00 p.m. on March 28, 1977, and conservatee shall remain in the jurisdiction of this court until that time.

nature of prohibition and mandamus filed on behalf of five adults who were each the subject of a substantially identical order appointing a parent or both parents as temporary conservator of the petitioner.<sup>1</sup> They sought an alternative writ which, after hearing, would lead to a peremptory writ that would prohibit continuing the orders in force, or which, in the alternative, would prohibit the respective temporary conservators from subjecting their respective temporary conservatees to the process of "deprogramming." In response to a further prayer in the petition, and after reviewing opposition filed by the conservators, on March 28, 1977, we issued a stay, pending determination of the petition, which substantially modified the powers of the temporary conservators.<sup>2</sup>

"8. Temporary Letters of Conservatorship shall issue without bond upon petitioner's taking and filing the oath required by law.

"Done in open court this 24th day of March, 1977, and signed this 25th day of March, 1977."

The order, ostensibly made pursuant to section 2201 of the Probate Code, is expressly excluded from the scope of appealable orders by section 2101. It has been recognized that a petition for an extraordinary writ is the proper method to secure review of a nonappealable probate order. (See *Conservatorship of Smith* (1970) 9 CalApp.3d 324, 327, 88 Cal.Rptr. 119, and *Le Jeune v. Superior Court* (1963) 218 CalApp.2d 696, 698, 32 Cal.Rptr. 390.)

2. The order reads in pertinent part: "Pending determination of the petition for a writ of prohibition and mandate on file herein, and subject to the further order of this court, the orders of March 24, 1977 appointing temporary conservators in San Francisco County Superior Court Action Nos. [designating the five actions] are hereby stayed to the extent that such orders grant to the temporary conservators the authority and power to do more than provide for the temporary care, maintenance and support of petitioners.

"Further, the temporary conservators are ordered enjoined from using the services of any person or organization in an attempt to alter the religious beliefs of the temporary conservatees in any way. They are also ordered enjoined from removing the temporary conservatees from the jurisdiction of this court, and each temporary conservator is enjoined from requiring the temporary conservatees to meet

The following day the petitioners sought an order to show cause directed against the alleged contempt of the order of this court by the conservators and others, and prayed for a suspension of the temporary conservatorships pending further order of this court. The conservators countered with a denial, alleged that two of the conservatees had requested deprogramming, and that associates of the conservatees were attempting to interfere with the conservators' control over the conservatees.

On March 30, the petitioners suggested the appointment of neutral, independent temporary conservators if the appointment was not vacated. The conservators sought to enlist the aid of deprogrammers to prevent harassment of themselves and their charges, and to establish the right of the temporary conservatees to talk to deprogrammers upon requesting such conversation in writing.

On March 31, the temporary conservators filed a request for an evidentiary hearing on the alleged contempt before any further stay was granted. For their part, the attorneys for the petitioners advised the court that an amended petition would be filed; and, by a separate communication, they advised this court that the petitioner Underwood had filed a revocation of the appointment of her attorneys, the designation of an Arizona attorney as her attorney and a voluntary consent to a conservatorship with the superior court, but that they could not ascertain whether she had freely and voluntarily done so.

By amended petition filed April 4, 1977, the petitioners sought (1) a writ of habeas corpus releasing petitioners from the custody of the temporary conservators; (2) review of the proceedings appointing the tem-

porary conservators by writ of certiorari, to the end that the orders be vacated; (3) relief by extraordinary writ to control the procedure at any hearing to appoint a permanent conservator;<sup>3</sup> and (4) costs of suit and reasonable attorneys' fees as provided in federal law. (Public Law 94-559 amending 42 U.S.C. § 1988.) An amicus curiae brief from the American Civil Liberties Union in support of the petition was filed. This court on April 5 then issued an alternative writ of mandate and order to show cause why a referee should not be appointed to hold a hearing on the contempt charges.

Meanwhile on April 5 the attorney for the temporary conservatees unsuccessfully sought an order vacating the temporary conservatorships in the trial court on the grounds the conservators had abused their powers as modified by the orders of this court. The conservators on April 8 filed their response to the new petition and the brief of amicus curiae; and on April 11, 1977, the matter came on for hearing.

At that time the attorneys for the petitioners filed their application for leave to withdraw as counsel for the petitioners Underwood, Brown and Katz; each of whom had executed documents similar to those previously filed by Underwood in the superior court. That application was granted; and the court took under submission the question of the dismissal of the petitions filed on their behalf with this court. In view of the instruments executed by those petitioners, the petition and amended petition for extraordinary relief must be dismissed insofar as they seek relief for those petitioners. Following argument the court stayed all five orders appointing a tempo-

with, talk to, or in any other manner come into contact with any person other than the temporary conservators if the temporary conservatees express the desire to avoid contact with such person."

3. The prayer reads that "a peremptory writ of mandate or prohibition issue under the seal of this Court commanding Respondent Court to refrain from holding hearings on or granting the petitions for appointment of permanent conservators absent probable cause to believe

that—without regard to Petitioners' religious beliefs, affiliations, or activities—the statutory criteria for a conservatorship are present; prohibiting Respondent Court from taking evidence at any such hearing which relates to Petitioners' religious beliefs, affiliations, and activities; and compelling Respondent Court to require that proof be beyond a reasonable doubt and that the jury be unanimous: . . ."

rary conservator so as to enable each temporary conservatee to associate with whomsoever he or she might choose. There remained for consideration the questions of whether those orders should be peremptorily set aside, whether the court should outline the procedure for conducting a hearing for the appointment of permanent conservators for the two remaining petitioners, the disposition to be made of petitioners' charges that the conservators and their agents acted in contempt of the orders of appointment as restricted by this court's order of March 28, 1977, and petitioners' application for attorneys' fees.

Submission of those matters was deferred pending the preparation of filing of a reporter's transcript of the proceedings in the trial court. The record having been filed, and all matters having been reviewed we conclude that the proceedings are not moot, and entertain them as to the remaining petitioners.

In examining the contentions made in support of the petition we find that the former provisions of section 1751 of the Probate Code, which the temporary conservators relied upon in these proceedings, were too vague to justify the appointment of temporary conservators of the persons as granted herein; that the former statutes did not authorize the appointments, as made by the court, under the most favor-

able interpretation of the evidence; and that under the circumstances of this case it was a violation of the petitioners' rights to religious freedom to appoint temporary conservators of their persons under the provisions of the Probate Code.

The order to show cause for contempt must be discharged in the interests of justice, and petitioners' prayer for attorneys' fees is denied.

# I

[1] Preliminarily we are faced with the question as to whether any decision on the merits of the original orders of appointment has been rendered moot. As we have noted, the petitions attacking the order must be dismissed with respect to three of the petitioners and their respective temporary conservators. With respect to the remaining two petitioners the orders for appointment of a temporary conservator are still of record although modified and stayed by this court. Under the law in effect at the time of the proceedings in the lower court, the temporary conservatorship continues "pending the final determination of the court upon the petition for appointment of a conservator." (Prob.Code, § 2201.)<sup>4</sup> Nevertheless we note that provisions governing the showing, circumstances and determination for appointment of a conservator have been drastically changed,<sup>5</sup> so that interpre-

4. Probate Code section 2201 provides: "On or after the filing of a petition for the appointment of a conservator, the court, with or without notice as the court or judge may require, upon a verified petition establishing good cause therefor, and filed by any person entitled under Section 1754 to apply for the appointment of a conservator, may appoint a temporary conservator of the person and estate or person or estate of any person (hereinafter called a conservatee) to serve pending the final determination of the court upon the petition for the appointment of a conservator under Chapter 2 of this division." Section 2206 formerly provided: "The appointment and qualification of a conservator terminates the powers of the temporary conservator except for the rendering of his account, unless by reason of an appeal therefrom or other cause the court appointing the conservator otherwise orders. If so ordered the court shall fix the time for the termi-

nation of the powers of the temporary conservator." (Stats. 1957, ch. 1902, § 1.)

By statutes 1976, chapter 1357, section 35, operative July 1, 1977, section 2206 was amended to provide as above in subdivision "(a)", and by the addition of a new subdivision, reading: "(b) Except as provided in subdivision (a) the powers of the temporary conservator shall not extend beyond 30 days unless the court, with or without notice as it may require, for good cause shall extend such powers pending the final determination of the court upon the petition for appointment of a conservator."

5. Probate Code section 1751 formerly provided: "Upon petition as provided in this chapter, the superior court, if satisfied by sufficient evidence of the need therefor, shall appoint a conservator of the person and property or person or property of any adult person who by reason of advanced age, illness, injury, mental

tation of the law in effect on March 25, 1977 may be of little precedential value.

The remaining parties and amicus curiae, however, have urged and insisted that the court rule on the remaining issues. Petitioners point out that even though certain facets of the case may have been resolved by releasing the petitioners from the custody of the temporary custodians, the Supreme Court has stated, "... if a pending case poses an issue of broad public interest that is likely to recur, the court may exercise an inherent discretion to resolve that issue even though an event occurring during its pendency would normally render the matter moot." (*In re William M.* (1970) 3 Cal.3d 16, 23, 89 Cal.Rptr. 33, 37, 473 P.2d 737, 741. See also *People v. Feagley* (1975) 14 Cal.3d 338, 345, 121 Cal.Rptr. 509, 535 P.2d 373; *In re Michael D.* (1977) 70 Cal.App.3d 522, 524, fn. 1, 140 Cal.Rptr. 1, and *In re L. L.* (1974) 39 Cal.App.3d 205, 207, 114 Cal.Rptr. 11.) We therefore examine the validity of the outstanding orders, and the issues remaining on the contempt charge. We refrain from ruling on peti-

tioners' prayer for directions concerning the procedure to be followed in connection with any hearing for a permanent conservatorship. We must assume that the trial court will follow appropriate law and procedure in the event such a hearing is held. The question of the probative effect of the religious beliefs, affiliations and activities of the proposed conservatee is, of necessity, discussed below as it bears on the appointment of a temporary conservator. The former's right to a jury trial is established by precedent, and by present statute. (*Le Jeune v. Superior Court* (1963) 218 Cal. App.2d 696, 698, 32 Cal.Rptr. 390; Prob. Code, § 1754.1, as added Stats. 1976, ch. 1357, § 27, operative July 1, 1977.) The question of the burden of proof and the necessity for unanimity in the verdict of the jury where civil proceedings may result in involuntary confinement is presently in the bosom of our appellate courts.<sup>6</sup> We cannot, however, avoid the juxtaposition of present and past law where it throws light on our interpretation of the latter.

weakness, intemperance, addiction to drugs or other disability, or other cause is unable properly to care for himself or for his property, or who for said causes or for any other cause is likely to be deceived or imposed upon by artful or designing persons, or for whom a guardian could be appointed under Division 4 of this code, or who voluntarily requests the same and to the satisfaction of the court establishes good cause therefor, or who is an absentee as defined in Section 1751.5. The court, in its discretion, may appoint one or more conservators." (Stats. 1957, ch. 1902, § 1, as amended Stats. 1972, ch. 988, § 3, effective August 16, 1972.)

By statutes 1976, chapter 1357, section 25, operative July 1, 1977, section 1751 was amended to read as follows: "Upon petition as provided in this chapter, the superior court, if satisfied by sufficient evidence of the need therefor, shall appoint a conservator of the person and property or person or property of any adult person who, in the case of a conservatorship of the person, is unable properly to provide for his personal needs for physical health, food, clothing or shelter, and, in the case of a conservatorship of the property, is substantially unable to manage his own financial resources, or resist fraud or undue influence, or for whom a guardian could be appointed under Division 4 of this code, or who volun-

of the court establishes good cause therefor, or who is an absentee as defined in Section 1751.5. 'Substantial inability' shall not be evidenced solely by isolated incidents of negligence or improvidence. The court, in its discretion, may appoint one or more conservators."

6. See *Conservatorship of Johnson* (Cal.App. 1977) 135 Cal.Rptr. 740, vacated by hearing granted March 17, 1977, Supreme Court No. LA 30572; *Guardianship of Roulet* (Cal.App. 1977) 134 Cal.Rptr. 722, vacated by hearing granted February 3, 1977, Supreme Court No. 30730; and *Estate of Turner* (Cal.App. 1977) 136 Cal.Rptr. 64, vacated by rehearing granted February 8, 1977, 1 Civil No. 38400, Div. 2. The foregoing cases deal with the provisions of subdivision (d) of section 5350 of the Welfare and Institutions Code, involving conservatorships for gravely disabled persons. Nevertheless under current law a comparison of the provisions of sections 5357 and 5358 of the Welfare and Institutions Code (powers of conservator/placeholder of conservatee) with sections 1851, 1852 and 1853 of the Probate Code (care, custody and control of conservatee/general and additional powers of conservator) indicates that any involuntary treatment must be provided under the former sections. (See text below.)

II

[2] We first examine petitioners' contention that the provisions of section 1751 of the Probate Code (fn. 5 above), under which these proceedings were instituted were unconstitutionally vague. Those provisions must furnish guidance for the determination of the "good cause" required by section 2201 (fn. 4 above) which authorizes the appointment of a temporary conservator. The record reflects that the petitions for appointment were entitled "Application For Appointment Of A Guardian (Conservator) Of The Person." Each alleged in pertinent part: "The appointment request for the proposed ward is required because of mental illness or weakness and unsound mind. The proposed ward is unable to property [sic] care for the person or the property of the proposed ward and is likely to be deceived by artful and designing persons."

Simultaneously the parents each filed an "Application For Appointment Of Temporary Guardianship (Conservatorship) Of The Person And For The Powers To Remove

Said Person From Custody Of A Certain Group And Place With Petitioner." Each application alleged in pertinent part, "[T]he proposed ward is 21 years old. The appointment for a temporary guardian of the person until a permanent guardian is appointed is necessary because Petitioner is informed and believes and thereon alleges, that said proposed ward is deprived of the ability to manage his person, is likely to be deceived by persons of artful and cunning design, and is in grave need of immediate psychiatric or other counseling"; and "The temporary Guardian of the person should be given powers to take said proposed ward into personal custody, and then examined by a physician of the temporary guardian's choice, including, but not limited to, psychiatrists, psychologist social workers, lay persons, etc., and to resist any attempts by the proposed ward or others to remove said proposed ward from proposed Guardian's care." The petitions all alleged and the record reflects that the petitioners in this matter were all adults over the age of 21 years.

We therefore are concerned only with those former provisions of section 1751

7. The applications for appointment of a temporary conservator were each accompanied by the following declaration:

"I HEREBY DECLARE that:

"I am the natural parent of the proposed ward.

"That during 1976, my child, the proposed ward, became involved with an association known as the Unification Church, headed by Rev. Sun Myung Moon.

"Based on my contacts with my child before and after the involvement with this group, and the changes I have observed in my child, I am concerned that my child is not now acting on free will, and that both the physical and mental health of the proposed ward are impaired. I am informed and believe and thereon allege that this is due to psychological pressures on my child in the present environment, and that these pressures are intentionally produced as a part of a system of mind control that is imposed upon the proposed ward by the Cult.

"In summary, that since the proposed ward's involvement with this Cult, during the above-mentioned period of time the following changes have taken place:

"1. Abrupt personality changes;

"2. Assets the proposed ward acquires is [sic] or has been [sic] transmitted to the leaders of the group.

"3. My child appears to be the victim of mind control through hypnosis, mesmerism, and/or brain washing."

In one of the conservatorships, an ex parte order was issued without notice, appointing the parents temporary conservators of the person of their daughter. The court found "that the proposed conservatee is unable properly to care for herself or for her property and is likely to be deceived or imposed upon by artful and designing persons, . . . ." The order of appointment, which was limited to 30 days, also provided: "The Conservator shall have the right to choose appropriate living arrangements for his or her conservatee. Placement out of the State of California is authorized."

No such order was executed, and the matters came on for hearing on March 9, 1972, on the applications for temporary conservatorships for a 30-day period.



which provided that the court "shall appoint a conservator of the . . . person . . . [first] of any adult person who by reason of advanced age, illness, injury, mental weakness, intemperance, addiction to drugs or other disability, or other cause is unable properly to care for himself or his property, or [second] who for said causes or for any other cause is likely to be deceived or imposed upon by artful or designing persons." (Emphasis added.)

The court's orders following the hearing (fn. 1 above), contain no findings of fact which would disclose the ground or grounds on which the orders were based. In announcing its decisions the trial court gave no clue to what facts he considered were established by the evidence.<sup>8</sup> The petitioners point out that there is nothing to show that the petitioners were unable to care for themselves, and that there was only limited evidence to show that care of property was involved, and that issue was not directly raised. They conclude that the appointments must stand, if at all, on the second ground, and that it is unconstitutionally vague as applied in the circumstances of this case.

<sup>1964</sup> 1 We are mindful that similar provisions first became a part of our law over 85 years

8. The court stated: "It's not a simple case. As I said, we're talking about the very essence of life here, mother, father and children. There's nothing closer in our civilization. This is the essence of civilization. [¶] The family unit is a micro-civilization. That's what it is. [¶] A great civilization is made of many, many great families, and that's what's before this Court. It's not the regular run-of-the-mill case that involves some money, or some kind of damage. It is the very essence of life."

In ruling on the petitioners' requests for restrictions on the order, it added: "One of the reasons that I made this Decision, I could see the love here of a parent for his child, and I don't even have to go beyond that. Even our laws of this State, the Probate laws have all been set up—the laws of succession, children succeed to the estate of their parents if the parents die intestate. [¶] So the law looks at that binding thing between a parent and a child. It is never-ending. No matter how old we are, it's there. And that was one of the things that influenced this Court."

9. Similar language was carried forward into section 1460 of the Probate Code which provided in part: "As used in this division of

ago when section 1767 was added to the Code of Civil Procedure reading, "The phrase 'incompetent,' 'mentally incompetent,' and 'incapable,' as used in this chapter, shall be construed to mean any person who, though not insane, is, by reason of old age, disease, weakness of mind, or from any other cause, unable, unassisted, to properly manage and take care of himself or his property, and by reason thereof would be likely to be deceived or imposed upon by artful or designing persons." (Stats. 1891, ch. 76, § 1, p. 68.)<sup>9</sup>

They have been frequently recognized. The constitutionality of the provisions was upheld against attack, on grounds other than that asserted here, in *Matter of Curn* (1913) 165 Cal. 202, 131 P. 352. (See pp. 209–212, 131 P. 352.) The court there stated, "Adopting the view, then, that section 1767 is a valid enactment, there can be no occasion to go beyond its terms to learn what conditions will justify the appointment of a guardian. The grammatical construction of the section is not above criticism, but defects in this respect, while they may enhance the difficulty of interpreting the enactment do not impair its binding

this code, the phrase 'incompetent person,' 'incompetent,' or 'mentally incompetent,' shall be construed to mean or refer to any person, whether insane or not, who by reason of old age, disease, weakness of mind, or other cause, is unable, unassisted, properly to manage and take care of himself or his property, and by reason thereof is likely to be deceived or imposed upon by artful or designing persons."

By statutes 1976, chapter 1357, section 5, operative July 1, 1977, the latter part of the section was revised to read: "As used in this division and Division 5 [Conservatorship] of this code, the phrase 'incompetent person,' 'incompetent,' or 'conservatee' shall mean a legal, not a medical disability and shall be measured by functional incapacities. It shall be construed to mean or refer to any adult person who, in the case of a guardianship of the person, is unable properly to provide for his own personal needs for physical health, food, clothing or shelter, and, in the case of a guardianship of the estate, is substantially unable to manage his own financial resources. 'Substantial inability' shall not be evidenced solely by isolated incidents of negligence or improvidence."

73 Cal.App.3d 966

## KATZ v. SUPERIOR COURT, ETC.

Cite as, App., 141 Cal.Rptr. 224

421

force. The test established by the section is whether or not the person in question is 'unable, unassisted, to properly manage and take care of himself and his property, and by reason thereof would be likely to be deceived or imposed upon by artful or designing persons.' This broad language must, we think, be read in the light of the other provisions of the chapter of which section 1767 is a part, and particularly of section 1763, which lays down the initial steps to be followed in seeking the appointment of a guardian. The petition must represent that the person is insane, or from any cause *mentally incompetent* to manage his property, and we take it that the inability defined in section 1767, although not expressly so limited, must be understood to mean a mental, rather than a physical inability. It is, under the section, immaterial how such inability has been produced. It may result from 'old age, disease, weakness of mind, or from any other cause.' (165 Cal. at p. 212, 131 P. at p. 356. Cf. *Estate of Kopkins* (1949) 34 Cal.2d 568, 577-578, 212 P.2d 886 [appointment for physical incapacity]; and *Hillman v. Stults* (1968) 263 Cal.App.2d 848, 872-874, 70 Cal.Rptr. 295 [prison inmate].)

With respect to the appointment of a guardian of the person, the *Coburn* court stated: "The main purpose of the statute is the protection of property [citation] and we think the legislative view was that the inability to take care of himself necessarily results from the determination that the person is 'insane, or from any cause incompetent to manage his property.' In other words, the care of one's self means, not merely attention to the physical needs of the body, but that control of one's actions and conduct which is exercised by a normal mind." (165 Cal. at pp. 216-217, 131 P. at p. 358.)

In *Guardianship of Cookingham* (1955) 45 Cal.2d 367, 289 P.2d 16, the court upheld the guardian's right to reimbursement for expenses incurred in unsuccessfully resisting the ward's petition for restoration to capacity. The court said, "The guardian could not assume merely from his ward's dis-

charge and subsequent petition for restoration that he was capable of taking care of himself. [Citation.] To discourage the guardian's inquiry as to the ward's status, in effect, would allow the petition for restoration to be considered without the presentation of all of the facts. But the purpose of the law is to protect a ward from being 'deceived or imposed upon by artful or designing persons' (Prob.Code, § 1460), and court must scrupulously protect the rights of persons whose competency is in question." (45 Cal.2d at pp. 371-372, 289 P.2d at p. 18.)

In *re Zanetti* (1949) 34 Cal.2d 136, 208 P.2d 657, noted the difference between the provisions of the Probate Code and the Welfare and Institutions Code, and ruled that the discharge of a guardian under the former provisions did not constitute a restoration to capacity under the latter. The court said, "Proceedings pursuant to the provisions of the Probate Code (see § 1460, quoted above) are designed to protect an incompetent who is for any reason mentally incapable of taking care of himself and of his property. The incompetency determined here need not be the result of insanity, e. g., 'mental illness,' and no confinement is contemplated. Protection of the incompetent from others is the main purpose of the statute. [Citations.]" (34 Cal.2d at p. 143, 208 P.2d at p. 660. See also *Guardianship of Mosier* (1966) 246 Cal.App.2d 164, 174, 54 Cal.Rptr. 447.)

In *re Des Granges* (1929) 102 Cal.App. 592, 223 P. 103, presented the opposite side of the coin. The court reversed a judgment terminating a guardianship solely because the ward had been adjudged sane and released in commitment proceedings in another state. The court stated: "It is the duty of the court to zealously guard the property of a person who has been declared to be insane or incompetent [citation], and upon a proceeding to restore such a person to capacity, to require proof not only of said person's sanity, but also of his ability to take care of his property, and that he is not likely to be deceived or imposed upon by

artful or designing persons." (102 Cal.App. at p. 598, 283 P. at p. 106.)

The courts have also recognized the right of an individual to control himself and his property. In *Estate of Schulmeyer* (1915) 171 Cal. 340, 153 P. 233, Justice Sloss stated, "Generally speaking, an adult person has the right to control his own person and affairs, and that right should not be taken from him, except upon a showing of the statutory grounds warranting a restriction of his liberty of action for his own protection." (171 Cal. at p. 342, 153 P. at p. 234.) There he found sufficient evidence to come within the purview of former section 1767. Two years later, however, he applied that generality to reverse an appointment predicated upon insufficient evidence. (*Estate of Watson* (1917) 176 Cal. 342, 346, 168 P. 341.) A similar thought was expressed in *In re Coburn* (1909) 11 Cal.App. 604, 105 P. 924, as follows: "It is a fundamental principle, based upon the plainest dictates of justice, that before a person can be deprived of his liberty and his property on account of his mental incompetency, he must be brought clearly within the terms of the statute, and the evidence must show that his mind is so far gone and so weak and feeble that he does not realize and comprehend the value and prudent management of his property, and is not sufficiently normal to care for it in the usual acceptance of that term." (11 Cal.App. at p. 606, 105 P. at p. 925.)

In *Board of Regents v. Davis* (1975) 14 Cal.3d 33, 120 Cal.Rptr. 407, 533 P.2d 1047, the court upheld the right of a conservatee to contract despite the fact that a conservator had been appointed for his estate. "The legislative history indicates that both the State Bar and the Senate Judiciary Committee intended that the new relationship achieve two major objectives. The first was the establishment of the conservator-

ship as an alternative to guardianship to avoid, as we have noted, the 'stigma' of the label 'incompetency.' In such a situation a conservator is merely another linguistic designation for a guardian. [7] The second objective of the new statute was to extend its embrace to those who would otherwise find themselves without legal protection. The Legislature achieved this objective by providing that the court could appoint a conservator for a person who was neither insane nor incompetent, but who, for a variety of other reasons, needed direction in the management of his affairs. Thus, clearly, the Legislature designed the conservatorship statute to cover a much more extensive category of eligible persons than the more limited guardianship law." (14 Cal.3d at pp. 38-39, 120 Cal.Rptr. at p. 410, 533 P.2d at p. 1050, fns. omitted. Cf. *Place v. Trent* (1972) 27 Cal.App.3d 526, 531-533, 103 Cal.Rptr. 841, as disapproved in *Davis*.)

The foregoing statement must be read in the context of the appointment of a conservator of a conservatee's estate. In *Conservatorship of Stewart* (1969) 276 Cal.App.2d 211, 80 Cal.Rptr. 738, the court stated, "The sole purpose of a conservatorship is to provide a competent person to act, under the guidance of the probate court, as the agent of the conservatee." (276 Cal.App.2d at p. 214, 80 Cal.Rptr. at p. 740. Accord: *Place v. Trent*, supra, 27 Cal.App.3d at pp. 530-531, 103 Cal.Rptr. 841.) Though *Davis* tells us the conservatee, if competent, may contract too, it no less emphasizes the property aspect of the conservatorship.

In upholding the right to appoint a temporary conservator of the estate without notice to the conservatee, the court in *Conservatorship of Gray* (1970) 12 Cal.App.3d 513, 90 Cal.Rptr. 776, stressed the necessity of preserving the estate from loss or dissipation. (12 Cal.App.3d at p. 524, 90 Cal.Rptr. 776.<sup>10</sup> See also *Conservatorship of*

estate from loss or dissipation during the period of time between the appointment of the temporary conservator and the hearing on the primary petition for the appointment of a conservator. Many instances could arise where the alleged conservatee is about to lose his property through *derelict* management.

10. "The appointment of a temporary conservator after the filing of the petition for the appointment of a conservator is in the nature of a provisional remedy granted before a hearing on the merits of the primary petition. Its sole object is to preserve the health and welfare of the alleged conservatee and to preserve his

Oliver (1962) 203 Cal.App.2d 678, 684, 22 Cal.Rptr. 111.)

[1968] It has been stated that in practice guardianship solely of the person is never utilized. (Pickering, Individual Rights in California Incompetency Proceedings (1974) 7 U.C.L.L. Rev. 457, 466, fn. 39, and accompanying text.) Experience has indicated that this is not necessarily so insofar as guardianships have been used to secure the custody of minors. We have no way of verifying the statement as applied to a guardianship or conservatorship solely of the person of an adult. In any event, we find no California authority on the extent such procedures, as distinguished from those authorized by the Welfare and Institutions Code, may be used to curb the freedom of action of an adult. (See part II below.)

We assume that there may be a difference between a restraint on the management of one's property, which does not dissipate or expropriate that property but merely seeks to preserve it, and a restraint on one's person. We are convinced that in the latter case the test of certainty must be that applied in the criminal law because fundamental rights are at stake.

In *re Gary W.* (1971) 5 Cal.3d 296, 96 Cal.Rptr. 1, 486 P.2d 1201, established that a juvenile was entitled to a jury trial before the court could direct his continued detention by the Youth Authority for treatment pursuant to sections 1800-1803 of the Welfare and Institutions Code. In upholding the right on due process and equal protection grounds, the opinion evaluated the procedures adopted to implement sections 1800-1803 in the light of other statutory provisions governing involuntary commitment. It stated, as is pertinent to the issues in this case, "The right to a jury trial in an action which may lead to the involuntary confinement of the defendant, even if such confinement is for the purpose of

artful or designing persons. To wait for the service of a citation upon him and for a hearing on the petition for the appointment of a conservator to take over the estate and prevent such loss could thwart the very objects and purposes of the conservatorship law. Under these circumstances to first require the service of a

treatment, is no less fundamental [than the right to procreation, interstate travel and education]." (5 Cal.3d at p. 306, 96 Cal.Rptr. at p. 9, 486 P.2d at p. 1209.) It added, "In extending the right to trial by jury to other classes of persons subject to civil commitment proceedings, the California Legislature has recognized that the interests involved in civil commitment proceedings are no less fundamental than those in criminal proceedings and that liberty is no less precious because forfeited in a civil proceeding than when taken as a consequence of a criminal conviction." (*Id.*, p. 307, 96 Cal.Rptr. p. 9, 486 P.2d p. 1209. See also *People v. Feagley* (1975) 14 Cal.3d 338, 350, 121 Cal.Rptr. 509, 535 P.2d 373, and *People v. Burnick* (1975) 14 Cal.3d 306, 318-321, 121 Cal.Rptr. 488, 535 P.2d 352.)

[1968] The classical statement of the requirements for statutes which provide for penal penalties on an individual is that found in *Connally v. General Const. Co.* (1925) 269 U.S. 385, 46 S.Ct. 126, 70 L.Ed. 322, reading: "That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties, is a well-recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law. And a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law." (269 U.S. at p. 391, 46 S.Ct. at p. 127. See also *Grayned v. City of Rockford* (1972) 408 U.S. 104, 108-114, 92 S.Ct. 2294, 33 L.Ed.2d 222; *Coates v. City of Cincinnati* (1971) 402 U.S. 611, 614, 91 S.Ct. 1686, 29 L.Ed.2d 214; *Keyishian v. Board of Regents* (1967) 385 U.S. 589, 597-604, 87 S.Ct. 675, 17 L.Ed.2d 629; *Giaccio v. Pennsylvania* (1966) 382 U.S.

citation on the alleged conservatee and the conduct of a hearing on the petition before the appointment of a temporary conservator would amount to a useless act if the estate of the conservatee was lost in the meantime." (*Conservatorship of Gray* (1970) 12 Cal.App.3d 513, 524, 90 Cal.Rptr. 776, 782.)

399, 402-403, 86 S.Ct. 518, 15 L.Ed.2d 447; *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 231, 82 Cal.Rptr. 175, 461 P.2d 375; *Katzev v. County of Los Angeles* (1959) 52 Cal.2d 360, 370-372, 341 P.2d 310, and *McMurtry v. State Board of Medical Examiners* (1960) 180 Cal.App.2d 760, 766-773, 4 Cal.Rptr. 910. Cf. *Old Dearborn Co. v. Seagram Corp.* (1936) 299 U.S. 183, 196-197, 57 S.Ct. 139, 81 L.Ed. 109; *Lorenson v. Superior Court* (1950) 35 Cal.2d 49, 59-61, 216 P.2d 859; *Wingfield v. Fielder* (1972) 29 Cal.App.3d 209, 217-220, 105 Cal.Rptr. 619; *McMurtry v. State Board of Medical Examiners*, supra, 180 Cal.App.2d 760, 768 and 773, 4 Cal.Rptr. 910, and *Smith v. Peterson* (1955) 131 Cal.App.2d 241, 245-250, 280 P.2d 522.)

If the individual's fundamental rights are violated it is immaterial whether the statute or proceedings are civil or criminal in nature. (See *Giaccio v. Pennsylvania*, supra, 382 U.S. 399, 402, 86 S.Ct. 518, 15 L.Ed.2d 447, and *Morrison v. State Board of Education*, supra, 1 Cal.3d 214, 231, 82 Cal.Rptr. 175, 461 P.2d 375.)

In *Grayned v. City of Rockford*, supra, the court pointed out the important values which vague laws offend. "First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an *ad hoc* and subjective basis, with the attendant

dangers of arbitrary and discriminatory application. Third, but related, where a vague statute 'abut[s] upon sensitive areas of basic First Amendment freedoms,' it 'operates to inhibit the exercise of [those] freedoms.' Uncertain meanings inevitably lead citizens to "steer far wider of the unlawful zone" . . . than if the boundaries of the forbidden areas were clearly marked.'" (408 U.S. at pp. 108-109, 92 S.Ct. at p. 2298, fn. omitted.) As applied in the present case an individual seeking salvation through religion or associating in a social or political cause cannot tell whether or not he will be placed in the custody of another on charges that he has been deceived by artful and designing persons. When such charges are laid, the court or jury in examining the precepts and associates selected by the proposed conservatee has no better standards under which to evaluate the latter's conduct. Finally, there may be severe inroads on the individual's freedom to practice his religion, and to associate with whom he pleases because of the threat of proceedings such as this.

Although the words "likely to be deceived or imposed upon by artful or designing persons" may have some meaning when applied to the loss of property which can be measured,<sup>11</sup> they are too vague to be applied in the world of ideas. In an age of subliminal advertising, television exposure, and psychological salesmanships, everyone is exposed to artful and designing persons at every turn. It is impossible to measure the degree of likelihood that some will succumb. In the field of beliefs, and particularly religious tenets, it is difficult, if not impossible, to establish a universal truth against which deceit and imposition can be measured.

11. It is generally recognized that "there must be something more than poor business judgment to establish incompetency." (*Guardianship of Waite* (1939) 14 Cal.2d 727, 731, 97 P.2d 238, 240; see also *Estate of Watson*, supra, 176 Cal. 342, 345, 168 P. 341, and *Estate of Baldrige* (1959) 122 Cal.App.2d 752, 755, 266 P.2d 103.)

Shakespeare tells us, "Who steals my purse steals trash; 'tis something, nothing; 'Twas

mine, 'tis his, and has been slave to thousands; But he that filches from me my good name Robs me of that which not enriches him And makes me poor indeed." (*Othello*, act III, scene 3.)

The same comparison may be drawn with a theft of one's beliefs, be it by "coercive persuasion" (part II), or summary legal action.

It has been recognized that under the power of a conservator of the person to have the "care, custody and control of" and to "fix the residence" of the conservatee (Prob.Code, former § 1851), a conservator can effect virtual confinement of a conservatee without his consent in a private facility. (Johnstone, Zillgitt, Levine, California Conservatorships Supp. (Cont.Ed.Bar 1976) § 5.6, p. 51, but cf. § 1851, as amended Stats.1976, ch. 1357, § 29, operative July 1, 1977; see part II below.)<sup>12</sup> A commentator has stated, "The guardianship statute [Prob.Code, § 1460] clearly fails to provide adequate guidelines for the reasoned application of the law. That guardians are, in fact, not appointed 'for almost any unsuccessful person' can be credited only to the restrained exercise of sound judicial discretion." (Pickering, *op. cit.*, 7 UCD L.Rev. at pp. 484-485, *fn.*s. omitted. See also 3 Condee, Cal.Practice, Probate Court Practice (West 2d ed. 1964) § 2289, p. 327, *re* Prob. Code, § 1751; and *id.* (3d ed. 1977) Goddard, § 2292, p. 448.)

In view of the values involved we conclude that the provisions of section 1751 as it read prior to July 1, 1977, were too vague to be applied in proceedings to deprive an adult of his freedom of action as proposed by the parents in this case. If there was mental deterioration, proceedings under the Welfare and Institutions Code were available. If there was duress or physical restraint criminal sanctions should have been sought.

12. Section 1851 formerly provided: "Every conservator of the person of a conservatee has the care, custody and control of the conservatee and may fix the residence of the conservatee at any place within this State, but not elsewhere without the permission of the court."

As amended effective July 1, 1977, the following provision was added: "No person for whom a conservator of the person has been appointed shall be placed in a mental health treatment facility against his will. Involuntary civil mental health treatment for a conservatee shall be obtained only pursuant to the provisions of Article 1 (commencing with Section 5150), Article 1.5 (commencing with Section 5170), Article 2 (commencing with Section 5200), Article 3 (commencing with Section 5225), Article 4 (commencing with Section 5250), Article 4.5 (commencing with Section 5260), Article 5 (commencing with Section

## III

[3] If the provisions are not too vague to permit the appointment of a guardian of the person, the question remains as to whether they were properly applied in this case. The hearings on the petition for the appointment of temporary conservators started seriatim; they were shortly thereafter consolidated. It therefore is necessary to consider the evidence taken with respect to some of the recanting petitioners to fully appraise the case with respect to the remaining two. The case was heard for over two weeks and resulted in a reporter's transcript of almost 1,700 pages. The parents offered the testimony of the mother and father of one of the proposed conservatees who later recanted. It was stipulated that the declarations of the other parents would be received in evidence. (See *fn.* 7 above.) They also produced two former members of the Unification Church, and a psychiatrist and a psychologist. Each of the proposed conservatees, the original petitioners here, testified in opposition to the petitions, and a psychiatrist, a psychologist, and two persons who had been subjected to deprogramming testified on their behalf.

Without the benefit of compliance with California Rules of Court, rule 983, the court, on a motion of local counsel for the parents, there being no objection, permitted two Arizona attorneys to join in presenting

5275), Article 6 (commencing with Section 5300), Article 7 (commencing with Section 5325), Article 8 (commencing with Section 5340), and Chapter 3 (commencing with Article 5350) of Division 5 of the Welfare and Institutions Code. . . . The articles referred to respectively deal with "Detention of Mentally Disordered Persons", "Detention of Inebriates for Evaluation and Treatment", "Court Ordered Evaluation for Mentally Disordered Persons", "Court-Ordered Evaluation for Persons Impaired by Chronic Alcoholism or Drug Abuse", "Certification for Intensive Treatment", "Additional Intensive Treatment of Suicidal Persons", "Judicial Review", "Postcertification Procedures for Imminently Dangerous Persons", "Legal and Civil Rights of Persons Involuntarily Detained", "Community Drug and Narcotic Treatment Services", and Conservatorship for Gravely Disabled Persons".

the case. The framework of the case was announced in the opening statement as follows: "Our goal here is, of course, to obtain temporary conservatorships of five young adults for a period of thirty days . . .

[¶] I think each of them are in the courtroom here today, sitting near their parents.

[¶] Our contention, our allegation and our proof will demonstrate that these young adults, individuals, are the victims of artful and designing persons, that is to say, specifically of the leadership of the New Educational Development which is a front organization for the Unification Church. [¶] The factors which will be demonstrated through this proceeding are that the following items have been utilized on these young individuals to one extent or another, at one time or another during this programming: Food deprivation; sleep deprivation; isolation; the use of fear tactics; the use of guilt feelings, and indoctrination, the same tactics used on our prisoners of war during the Korean War crises. [¶] As a loose definition of what these items constitute, it is oftentimes referred to as 'coercive conversion' or 'thought reform', or commonly referred to as 'brainwashing', which of course is a very elusive term in our society today because of the quantitative and qualitative nature of brainwashing— . . . [¶] It is our position that the proof will demonstrate that these people are victims of artful and designing persons due to coercive conversion which is oftentimes referred to as thought control, thought reform, or brainwashing. [¶] As a loose definition of what I referred to by the word 'brainwashing' or 'coercive conversion' I mean generally, and it will be more specifically explained by the medical personnel which we will present, as being basically behavior of an individual, determined not by his own internal decision, but rather by coercion from outside forces, and specifically in this case, through the use of fear and guilt tactics. [¶] The facts we will prove are that these five young adult individuals are victims of artful and designing persons. . . . [¶] In terms of solution our evidence, specifically through our medical personnel, will indicate that the solution to this problem lies in reality-induc-

ing therapy which consists of adequate food, sleep, books to read on coercive persuasion, and the ability to have opportunities to speak with former cult members.

[¶] Additionally our evidence will show these young people are victims of psychological kidnaping, and that basically for the most part they are young, idealistic and naive individuals. [¶] There is no crime against brainwashing, and this [is] why we have turned to this Court. And our evidence will show even the initial recruitment of these individuals was through deceit."

The father of petitioner Underwood, who has recanted, testified to personality changes in his 25-year-old daughter during the four years she had been a member of the Unification Church. He stated: "Her demeanor was quite different than it had been before. [¶] Whereas before she was open and curious and very interested in all kinds of ideas, political and social, she was no longer, after she was in the movement, interested in all those things. [¶] She became somewhat child-like in her belief and acceptance of this unitary system of beliefs, and her interests were almost totally devoted to that system of beliefs, to the exclusion of virtually all else, and she had had very broad interests before. [¶] So her demeanor was, I would say, child-like, broad, somewhat artificially cheerful I felt at times in making the best of everything, whereas before she felt free to be somewhat critical of things that impinged on her life adversely." He also noted a change in her cultural interests, hobbies, in her vocational goals and objectives, in her participation in civic activities, and in her voice which became high-pitched rather than hoarse. He opined that she was being imposed upon because she was devoting all her time, many hours a day, to raising funds for the movement without receiving any compensation personally other than minimal food and a place to put down a sleeping bag.

On cross-examination he acknowledged that his daughter looked healthy at the hearing, and had always appeared to be when they had visited in the previous year. He further stated: "I think she has her



own mind, but I think it is controlled like someone under hypnosis; and in certain areas, she cannot function as an independent human being."

1974 Mrs. Underwood testified in similar vein regarding the changes in her daughter's personality. She opined that her daughter was incapable of freely arriving at a decision.

A former member of the Unification Church testified that he joined while a student at the University of California in Berkeley; that he was at times a director of the church seminar and training camp in Booneville, manager of its coffee restaurant in Oakland, and a staff member of the Bay Area Unification Church and its affiliated New Ideal Development; and that he had been a leader of fund raising teams in Berkeley and around the country. He stated that he left the church in December 1976, following a temporary conservatorship in which he experienced therapy counseling which enabled him to see certain deceptive practices of the Unification Church. He explained the treatment he received. He opined that previously he would not freely have chosen to leave because when he had any doubts about the group, he was taught to and did attribute it to his inability to do or appreciate what was right.

He stated he became interested in the group in response to representatives of what purported to be "International Ideal City Project," and only later found out it was a religious organization and was known as the Unification Church. Among the other practices of which he complained were peer pressure; negating the value of the individual so that identity existed only in relationship to the group; a tremendous polarization of thinking to see the world in terms of good and evil, with goodness existing only within the confines and actions of the group itself, and everything outside evil and Satanic. He referred to tactics of "mind control" which he defined as "a situation where a set of beliefs or doctrines are imposed upon a person through a process of either isolation or force, or using tactics of

fear and guilt to impose these ideas on a person so they become unquestionable or unimpeachable." The witness testified that the daily objectives of the group were to make money and bring in new members. He acknowledged that the overall objectives of the Unification Church were to establish a heavenly kingdom on earth, to obtain all the worldly material so Reverend Moon has all the power and wealth of the world in his hands.

He explained the arduous routine followed by fund raising teams—from 7 a. m. to 1 a. m., six days a week. The court refused to permit inquiry regarding what the church did with its collection. He testified that "New Educational Development" was another offshoot of the church and that such names were used to overcome the reluctance of some prospects to at first attend dinners or seminars held by the church. According to him he worked long hours to raise money to pay for various facilities the Unification Church was purchasing throughout the country, large training centers, large estates, beautiful homes, and personal jewelry, fur coats and cars for the leaders; and that he was under emotional and psychological pressure to fulfill a responsibility to make money for the Reverend Moon and the Unification Church in order to establish a heavenly kingdom on earth. He felt compelled to follow the religious and political teachings of Reverend Moon.

1975 A second former member of the church from 1972 to 1976 testified that he directed church operations in the State of Pennsylvania in 1973, was lecturer on the staff of the Tarrytown, New York Center in 1974-1975, and assistant director of planning and development for the Unification Church Seminary in 1975, where he had been a student and teaching assistant responsible for recruiting faculty and teaching them some of the ideas of the movement. In 1976 he worked as editor of a propaganda magazine known as "New World." He was among the hierarchy on the East Coast. He left the church because after a court proceeding he learned facts about the

church and the techniques of mental subversion that had been practiced on him. At the time of the hearing he was the director of the Freedom Ranch Rehabilitation Center of the Freedom of Thought Foundation at Tucson, Arizona.

He explained these techniques as follows: A very strong isolation of the individual from his home, from his friends, and even from his own mind; a completely structured program from 7 a. m. to 12:30 or 1 a. m. at night; every single activity a person engaged in—including washing, exercising, eating, going to lectures, participating in sports—was done by a group, and a person was given no free time whatsoever; an intense schedule and a deluge of religious concepts which left the participant confused and too fatigued at the end of the day to reflect on the day's activities and lectures; a limited amount of sleep and food which left the participants sluggish; and the inculcation of a feeling of personal guilt if the participant doubted or failed to follow the teachings.

He explained the deprogramming routine and acknowledged that those subjected to it were told that they could not leave and should stay and listen to the deprogrammers.

The psychiatrist, who jointly with a psychologist examined the proposed conservatees on behalf of the petitioning parents, testified that he took a history from the parents and from the individual examined, and based his findings on those histories and his observations in the course of an hour and a quarter or so interview and confrontation with the subject. His findings, to which he also testified, were incorporated in a written statement prepared at the request of the attorney for the parents to determine in his opinion if five members of the Unification Church were under the influence of coercive persuasion which would render them vulnerable to artful and designing persons. It reads:

"It is my opinion that all five of these well-meaning, well-intentioned young people—Jan Kaplan, Leslie Brown, John Howard, Jacqueline Katz and Barbara Under-

wood—have several symptoms which are not present in the average individual of their ages and background.

"During my interviews with them, it was as though these individuals responded to a pre-set (i. e., there was an effort made to answer all questions out of a limited set of answers). This limited set of answers appeared to be alien or inconsistent with those of their non-cult peers.

"They all suffered from gross lack of information regarding current events; they all seemed to be preoccupied with a concern about their selfishness, but all reported that they worked as much as twenty hours a day.

"They all showed a moderate degree of memory impairment, especially about their childhoods; their functional vocabulary in terms of the words that they used during the interview was limited and constricted.

"Their affects were blunted, emotionality frozen in a child-like inappropriate smile to all input, whether it be hostile or otherwise.

"They were all wide-eyed, had short attention spans and a decreased ability to concentrate.

"They were all vague, with limited ability towards abstractions; they were full of inconsistencies, contradictions and confabulations when pressured.

"They uniformly held that the Unification Church was not responsible for anything unless it was positive.

1 "They had very little concern for previous and future personal goals; they were paranoid about previous relationships, and had defensive attitudes toward id urges.

"Their inner sense of authority was lost, and all responded as if they were influenced by an outside authority.

"They all showed various degrees of regression and child-like attitudes, especially when stressed.

"In general, they did not respond as one would expect from their background and personality types."

Cite as, App. 141 CalRptr. 234

He further stated that the symptoms he found were the result of "coercive persuasion." He explained that by "coercive persuasion" he meant a series of techniques principally introduced to this country by the prisoners of war who returned from the Korean War and the Vietnamese conflicts; and that is a term used by professionals to explain what the laymen call "brainwashing." He stated that it is the result of a systematic ritualistic procedure that people undergo who usually are in captivity, until they basically take on the identity of the individuals that they are around; that the captor or dominant individual reinforces this by either withholding food or withholding sleep, by initiating anxiety and fear, by essentially controlling the individual until that person loses his own identity and takes up the identity of the individuals that they are involved with; that many times the individuals are hypnotized and are objects of hypnosis and autohypnosis where certain key phrases and certain words will trigger a certain kind of thought pattern within the individual.

He testified that Miss Underwood was not psychotic, that she did not have any symptoms of a standard medical diagnosis of mental disturbance, and that she was not hypnotized. He did conclude that her symptoms were consistent with those of an individual who had been subjected to coercive persuasion, and that she was likely to be deceived by artful and designing persons. He also opined that she required immediate psychiatric treatment because she was in an abnormal situation and she should not be further exposed to it. He stated that it was difficult to predict for lack of data what the outcome would be but he believed that from long exposure Miss Underwood's symptoms were more stationary and severe than the others. He acknowledged, however, that he could not tell from his examination whether there would be an abrupt change in her mental status over the ensuing 30 days, and that there was no indication that there would be a rapid deterioration in her mental state during that period.

The doctor stated that Hovard was the most disturbed of the five individuals he examined, and that he had some concerns about his mental health. He opined that whether Hovard's mental health would deteriorate in the ensuing 30 to 60 days would depend on the stress he was subjected to. With respect to Miss Brown, the doctor testified that her mental, emotional state would not substantially deteriorate within the ensuing 30 to 60 days if she remained with the organization. With respect to Miss Kaplan, the doctor stated that he was doubtful, and it was possible her mental or emotional state could deteriorate if she were left in her former environment. He generally stated that it would not be in the best interests of the health of any of the five to continue whatever it was they were doing for the next six months, and that he felt this most strongly with respect to Hovard.

A qualified clinical psychologist who had done research in the field of repatriated prisoners of war and interned civilians from the Korean War, also testified for the parents on the results of the joint examination. She testified that pictures drawn by the young adults at her request at the conclusion of the interview displayed the characteristics of pictures drawn by prisoners of war who had been subjected to coercive persuasion. On the basis of the drawings, the history received from the parents and their offspring, her interviews of from 40 to 50 former young adults who had been members of the Unification Church, and her examination of proposed conservatees, she stated that each was the victim of artful and designing persons as a result of the coercive persuasion to which he or she had been subjected during the time they were in the Unification Church; that there was an emergency situation and they all were in need of treatment; and that only reality therapy as was provided by the staff of Freedom Ranch was appropriate. In each case the psychologist found a generally impaired level of functioning, and an unwillingness to make evaluative statements or comparisons, which reflected an impairment of judgment.

1979 She acknowledged that what she observed and found did not fit into any class under headings offered in a standard psychiatric and psychological diagnostic and statistical manual; and that the constraint attendant to the treatment program did not involve a psychiatric problem. She at first studiously avoided testifying that the Unification Church practiced coercive persuasion, but consistently referred to the personal experiences of persons whom she had studied and of the conservatees while with members of the church as consistent with those used for coercive persuasion. She did finally opine on the basis of that data that the Unification Church practiced coercive persuasion on its members. She concluded that in a broad sense that church was a religion, but in a limited sense it was not.

The proposed conservatees each testified in opposition to the parents' petitions. Each sought to follow the beliefs and mode of living he or she had elected to follow. Each denied any coercive persuasion, and pointed out that there was no physical restraint exercised. In fact Miss Brown had left the group and returned after four days of reflection. Each explained the manner in which he or she was invited to join and become a member of the group, and the experiences that resulted thereafter. From their testimony it appeared that proselyting was done in the name of an organization other than the church, and that the Unification Church itself or Reverend Moon were not mentioned until the prospect had been with the group for a period of time; that the converts led Spartan lives with respect to food, accommodations and hours of fund raising activities; and that on occasion evasive answers were given while soliciting funds. They also explained their reaction to the examination and confrontation with the parents' psychiatrist and psychologist, and insisted on their competency.

A psychiatrist and a psychologist, who actually tested the proposed conservatees, also testified on their behalf. The former pointed out that "coercive persuasion" in the absence of drugs, hypnosis, physical captivity or some greater fear was no more than speculative theory, and that the expe-

riences relied upon by the parents' experts were no more than usually accompany devotion to a religious belief. He also confirmed that the proposed conservatees did not suffer from any mental pathological condition, and disagreed with the existence of the symptoms found by the parents' experts, and their conclusions as to the exposure of the prospective conservatees to "coercive persuasion" as used by those experts, and their conclusions as to the young adults susceptibility to being deceived or imposed upon by artful and designing persons. This psychiatrist had a law degree, as well as a medical degree, and admittedly had testified against legislation which would permit guardianship proceedings to be applied to persons who become members of a nonconforming organization, or in other than gravely serious situations. He questioned the propriety of the artful and designing person test because of the difficulty of distinguishing between what could be considered proper or improper art and design. 1980

The conservatees' clinical psychologist gave each a clean bill of health on the basis of three tests he conducted. He testified that these tests would reveal symptoms similar to those experienced by prisoners of war who were subjected to similar tests but that they did not with the conservatees. He expressly repudiated the findings of the parents' experts with regard to some of the symptoms they relied upon, and he made it clear that there was no emergency.

The conservatees also presented the testimony of two persons who had undergone deprogramming under the auspices of those with whom it was proposed to place the conservatees. One was a member of the Unification Church.

The parents rely upon the substantial evidence rule. In *Guardianship of Walters* (1951) 37 Cal.2d 239, 231 P.2d 473, the court ruled, "All conflicts and any reasonable doubt as to the sufficiency of the evidence must be resolved in favor of the order. [Citations.] In cases of this type, as in any other, we must uphold the findings of the trial court if there is any substantial evi-

dence which, together with the aid of all inferences reasonably to be drawn from it, tends to support the judgment. [Citations.]” (37 Cal.2d at p. 245, 231 P.2d at p. 477. See also *Guardianship of Brown* (1976) 16 Cal.3d 326, 336-337, 128 Cal.Rptr. 10, 546 P.2d 298; *Estate of Cowper* (1918) 179 Cal. 347, 349, 176 P. 676; *Estate of Schulmeyer*, supra, 171 Cal. 340, 342-343, 153 P. 233; *Matter of Coburn*, supra, 165 Cal. 202, 212-213, 131 P. 352; *Estate of Baldrige* (1954) 122 Cal.App.2d 752, 753, 266 P.2d 103; *Guardianship of Peterson* (1948) 84 Cal. App.2d 541, 545, 191 P.2d 98, and *In re Coburn*, supra, 11 Cal.App. 604, 611, 105 P. 924, Hall, J. and Kerrigan, J. concurring.)

On the other hand when the evidence is insufficient to support a necessary finding, express or implied, the judgment or order cannot be sustained. (See *Guardianship of Brown*, supra, 16 Cal.3d 326, 337-340, 128 Cal.Rptr. 10, 546 P.2d 298; *Guardianship of Waite* (1939) 14 Cal.2d 727, 731, 97 P.2d 238; *Estate of Watson*, supra, 176 Cal. 342, 346, 168 P. 341; *Estate of Baldrige*, supra, 122 Cal. App. 2d 752, 755-756, 266 P.2d 103, and *In re Coburn*, supra, 11 Cal.App. 604, 609-620, 105 P. 924, Cooper P. J.)

Reasonable minds could differ over the validity of the concept advanced by the parents’ experts, and the validity of their findings concerning the psychological state of the proposed conservatees. It must, however, be conceded that there was testimony, which if believed, sustained the implied conclusion from the court’s order that each of the conservatees was a person, who because of having been subjected to coercive persuasion (popularly “brainwashing”), was likely to be deceived or imposed upon by artful or designing persons, and that it was necessary to reverse that process. We feel that the evidence was insufficient to sustain a finding that there was any emergency authorizing good cause for appointment of a temporary conservator, but since there was a full hearing in this case and other reasons compel a setting aside of the order, we do not dwell on that point.

Here it is not the conservatee’s estate that is to be protected, but his mind. The

statutory authorization has been analyzed as follows: “An individual who is not otherwise in need of a conservator and who is willing to accept, and able to carry out, the decisions made for him by relatives or friends about personal matters—where to live, what to do, and what to eat—does not require a conservator of the person, regardless of his physical or mental condition. Conversely, an individual who is unwilling or unable to accept reasonable directions in the conduct of his personal life requires a conservator of the person. So does one who is physically or mentally unable to consent to medical or dental services.” (Johnstone & Zillgitt, *California Conservatorships* (Cont.Ed.Bar 1963) § 3.3, p. 54.) As we have noted (fn. 5), the law now provides that a conservatorship of the person shall be appointed if an individual “is unable properly to provide for his personal needs for physical health, food, clothing or shelter.” (§ 1751, as amended.) We take that as declaratory of the former first ground—“unable properly to care for himself.” There is no real showing here that the conservatees are physically unhealthy, or actually deprived of, or unable to secure food, clothing and shelter. Justification for the appointment under the second ground can only be attributed to a necessity to secure treatment medical or otherwise, which it cannot be gainsaid, is to affect the conservatee’s mental health.

In this setting we believe that the provisions of the amendments operative July 1, 1977, are declaratory of the common law. Section 1851 expressly provides that involuntary civil mental health treatment for a conservatee shall be obtained only under the provisions of the Welfare and Institutions Code (fn. 12 above). Decisions of the courts of this state indicate that prior thereto an individual was entitled to no less rights because of the constitutional principles of equal protection and due process of law. We leave aside the question of emergency medical treatment to save life (cf. *Application of President & Directors of Georgetown Col.* (1964) 118 U.S.App.D.C. 80, 87-90, 331 F.2d 1000, 1007-1010, with *Winters v. Miller* (2d Cir. 1971) 446 F.2d 65,

70-71 [cert. den. (1971) 404 U.S. 985, 92 S.Ct. 450, 30 L.Ed.2d 369], and turn to those decisions.

On attaining majority a child is emancipated from the control of the parent. (Civ. Code, § 204; *Dittrich v. Gobey* (1898) 119 Cal. 599, 601, 51 P. 962.) It is recognized that on so attaining majority a person can no longer be subjected to any extraordinary procedures or controls applicable to minors. (See *In re Gary W.*, *supra*, 5 Cal.3d 296, 305-206, 96 Cal.Rptr. 1, 486 P.2d 1201, and Civ.Code, § 43. Cf. *In re Roger S.* (1977) 19 Cal.3d 655, 662, 667-669 and 672-673, 139 Cal.Rptr. 861, 566 P.2d 997.)

Even with a minor child the parents' right to secure treatment which will involve curtailment of the child's liberty is restricted. "Neither the state, nor the parent, has an interest in committing a child to a state mental hospital for care and treatment if the child is not in need of treatment or if treatment can be provided without so drastically curtailing the freedom of the child. Recognition of the child's right to demand due process in the proceedings leading to commitment does not therefore impermissibly impinge on the parent's right to control the upbringing of his child." (*In re Roger S.*, *supra*, 19 Cal.3d at p. 664, 139 Cal.Rptr. at p. 866, 566 P.2d at p. 1002.) It is also established that the actual commitment of a mentally disordered minor who is also a ward of the juvenile court can be accomplished only in accordance with the Lanterman-Petris-Short Act. (Welf. & Inst. Code, §§ 5000-5401.) (*In re Michael E.* (1975) 15 Cal.3d 183, 189 and 192, 123 Cal.Rptr. 103, 538 P.2d 231. See also *In re Michael D.*, *supra*, 70 Cal.App.3d 522, 529-530, 140 Cal.Rptr. 1, and *In re L. L.*, *supra*, 39 Cal.App.3d 205, 213, 114 Cal.Rptr. 11.)

If a minor, in whose health the state has an interest, which may overcome some parental and constitutional rights, is so protected, it cannot deny an adult commensurate procedural protection. (*Baxstrom v. Herold* (1966) 383 U.S. 107, 115, 86 S.Ct. 760, 15 L.Ed.2d 620.) *In re Roger S.*, *supra*, 19 Cal.3d 655, 139 Cal.Rptr. 861, 566 P.2d 997 concluded that although the personal

liberty interest of a minor is less comprehensive than that of an adult, and a parent or guardian not only may, but must, curtail that interest in the proper exercise of his obligation to guide the child's development, in the area of admission to a state hospital a minor of 14 years or more possesses rights which may not be waived by the parent or guardian. With respect to the first point, the court noted the following rights of an adult: "The liberty interest of an adult may sufficiently outweigh the state's interest in promoting optimal mental health that the state may not confine a nondangerous adult solely for the purpose of treating that person's mental illness. Clearly the state may not involuntarily confine a harmless mentally ill individual without providing treatment. (*O'Connor v. Donaldson*, *supra* [1975], 422 U.S. 563, 576, 95 S.Ct. 2486, 45 L.Ed.2d 396, 407.) Whether or not it might constitutionally do so, the Legislature has not permitted involuntary confinement of harmless mentally ill adults or juvenile court wards in state mental hospitals unless they are gravely disabled." (*Id.*, pp. 667-668, 139 Cal.Rptr. p. 868, 566 P.2d p. 1004.)

It has been recognized that since 1969 the Lanterman-Petris-Short Act was intended as the only mechanism for the involuntary institutionalization of persons who are gravely disabled, i.e., "unable to provide for his basic personal needs for food, clothing or shelter." (Welf. & Inst. Code, § 5008, subd. (h); cf. § 1751; as operative July 1, 1977, fn. 5 above; *Johnstone & Zillgitt*, *Levine*, Cal. Conservatorships (Cont.Ed.Bar Supp.1976) § 5.6, pp. 50-51; and Ops. No. CV 73-112 and CV 74-327 (1975) 58 Ops. Cal.Atty.Gen. 50, 57-60 and 849. See also *Fornasero*, Substantive Constitutional Rights of the Mentally Ill (1974) 7 UCD L.Rev. 128; *Barnhart*, *Pinkerton & Roth*, Informed Consent to Organic Behavior Control (1977) 17 Santa Clara L.Rev. 39; and note Welf. & Inst. Code, § 5325, subds. (f) and (g).)

If an adult person is less than gravely disabled we find no warrant for depriving him or her of liberty and freedom of action under either the former provisions of the

Probate Code, or the Welfare and Institutions Code. If there is coercive persuasion or brainwashing which requires treatment, the existence of such a mental disability and the necessity of legal control over the mentally disabled person for the purpose of treatment should be ascertained after compliance with the protection of civil liberties provided by the Welfare and Institutions Code. To do less is to license kidnaping for the purpose of thought control. We conclude that the provisions of the Probate Code could not be applied to justify the appointment of a conservator of the person on the evidence presented in this case.

#### IV

[4] As an alternative ground of decision we are asked to find that the temporary orders violated the conservatees' rights to freedom of religion and association under the federal and state Constitutions. (U.S. Const., 1st Amend., Cal. Const., art. I, §§ 1 and 4.) The parents claim that there is no freedom of action, freedom of religion, or freedom of assembly involved, that the sole issue is whether or not the conservatees have been deprived of their reasoning powers by artful and designing persons. On behalf of the conservatees it is urged that since an alleged religious group is involved, there can be no inquiry into the validity of the beliefs held by the members of that group, and the proceedings below trespassed into that field. We find that the law applicable to this case is not as myopic, but is more perceptive than the conservatees assert, and that the facts cannot be as simply interpreted as the parents contend.

In finding that a religious conviction against working on Saturday was good cause for failing to accept suitable work with respect to the right to receive unemployment benefits the Supreme Court tersely reviewed the principles developed under the First Amendment as follows: "The door of the Free Exercise Clause stands tightly closed against any governmental regulation of religious beliefs as such, *Cantwell v. Connecticut*, 310 U.S. 296, 303, 60 S.Ct. 900; 84 L.Ed. 1213 [discretionary licensing of reli-

gious solicitations]. Government may neither compel affirmation of a repugnant belief, *Torcaso v. Watkins*, 367 U.S. 488, 81 S.Ct. 1680, 6 L.Ed.2d 982 [religious test for office]; nor penalize or discriminate against individuals or groups because they hold religious views abhorrent to the authorities, *Fowler v. Rhode Island*, 345 U.S. 67, 73 S.Ct. 526, 97 L.Ed. 828 [discrimination in use of park]; nor employ the taxing power to inhibit the dissemination of particular religious views [citations]. On the other hand, the Court has rejected challenges under the Free Exercise Clause to governmental regulation of certain overt acts prompted by religious beliefs or principles, for 'even when the action is in accord with one's religious convictions, [it] is not totally free from legislative restrictions.' *Braunfeld v. Brown*, 366 U.S. 599, 603, 81 S.Ct. 1144, 6 L.Ed.2d 563 [Sunday closing]. The conduct or actions so regulated have invariably posed some substantial threat to public safety, peace or order. See, e.g., *Reynolds v. United States*, 98 U.S. 145, 25 L.Ed. 244 [polygamy]; *Jacobson v. Massachusetts*, 197 U.S. 11, 25 S.Ct. 358, 49 L.Ed. 643 [compulsory vaccination]; *Prince v. Massachusetts*, 321 U.S. 158, 64 S.Ct. 438, 88 L.Ed. 645 [child labor]; *Cleveland v. United States*, 329 U.S. 14, 67 S.Ct. 13, 91 L.Ed. 12 [prostitution/polygamy]." (*Sherbert v. Verner* (1963) 374 U.S. 398, 402-403, 83 S.Ct. 1790, 1793, 10 L.Ed.2d 965 [editorial comments added]. See also, *Wisconsin v. Yoder* (1972) 406 U.S. 205, 219-220 and 229-230, 92 S.Ct. 1526, 32 L.Ed.2d 15 [compulsory secondary education proscribed]; *People v. Woody* (1964) 61 Cal.2d 716, 723-726, 40 Cal.Rptr. 69, 394 P.2d 813 [prohibition of use of peyote for religious services proscribed]; *Pencovic v. Pencovic* (1955) 45 Cal.2d 97, 102-103, 287 P.2d 501 [compulsory support of child upheld]; *Perez v. Sharp* (1948) 32 Cal.2d 711, 713, 198 P.2d 17 [prohibition of miscegenation proscribed]; *Gospel Army v. City of Los Angeles* (1945) 27 Cal.2d 232, 242-248, 163 P.2d 704 [non-discriminatory licensing of charitable solicitors upheld]; *Citizens for Parental Rights v. San Mateo Bd. of Education* (1975) 51 Cal.App.3d 1, 11-20 and 27, 124 Cal.Rptr. 68 [implementa-



tion of non-compulsory family life and sex education courses upheld]; *People v. Mullins* (1975) 50 Cal.App.3d 61, 69-71, 123 Cal. Rptr. 201 [prohibition of use of marijuana upheld]; *Montgomery v. Board of Retirement* (1973) 33 Cal.App.3d 447, 450-452, 109 Cal.Rptr. 181 [right to non-service connected disability retirement benefits despite refusal to submit to treatment upheld]; *People v. Collins* (1969) 273 Cal.App.2d 486, 488, 78 Cal.Rptr. 151 [prohibition on use of marijuana upheld]; *Hollon v. Pierce* (1967) 257 Cal.App.2d 468, 476, 64 Cal.Rptr. 808 [right to discharge incompetent school bus driver upheld]; *Estate of Supple* (1966) 247 Cal. App.2d 410, 414, 55 Cal.Rptr. 542 [alleged undue influence and fraud on testator rejected] [cert. den. (1967) 389 U.S. 820, 88 S.Ct. 37, 19 L.Ed.2d 70]; *People v. Mitchell* (1966) 244 Cal.App.2d 176, 181-182, 52 Cal. Rptr. 884 [prohibition on use of marijuana upheld]; *Sec. & Exchange Com'n v. World Radio Mission, Inc.* (1st Cir. 1976) 544 F.2d 535, 538-540 [sale of "Loan Plans" and "Land Bonds Loan Plans" subject to anti-fraud provisions of federal security acts]; *Kennedy v. Meacham* (10th Cir. 1976) 540 F.2d 1057, 1061 [right to practice religion in prison]; *Founding Church of Scientology v. United States* (1969) 133 U.S.App.D.C. 229, 237-244, 409 F.2d 1146, 1154-1161 [literature accompanying device for religious practices not subject to mislabeling provisions of federal and drug regulations] [cert. den. (1969) 396 U.S. 963, 90 S.Ct. 434, 24 L.Ed.2d 427]; *Baer v. City of Bend* (1956) 206 Or. 221, 229-235, 292 P.2d 134, 136-141 [fluoridation upheld]; and *State ex rel. Holcomb v. Armstrong* (1952) 39 Wash.2d 860, 863-864, 239 P.2d 545, 547-548 [compulsory chest x-ray as condition of entry to state university upheld].)

The classic statement concerning the scope of a religion projected by the First Amendment is found in *United States v. Ballard* (1944) 322 U.S. 78, 64 S.Ct. 882, 88 L.Ed. 1148, an action involving a prosecution for using and conspiring to use the mails to defraud. The court reversed a judgment of the Circuit Court of Appeals which had reversed the defendants' convictions because the trial court had withdrawn

from the jury the question of the truth or falsity of the defendants' representations, which admittedly covered their alleged religious doctrines and beliefs, and submitted the case on the issue of whether they honestly and in good faith believed in them. In remanding the case to the Circuit Court of Appeals for further consideration the court ruled that the truth or verity of respondents' religious doctrines or beliefs should not have been submitted to the jury. (322 U.S. at p. 86, 64 S.Ct. at p. 886.) The court stated as follows: "The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect." *Watson v. Jones*, 13 Wall. 679, 723, 20 L.Ed. 666. The First Amendment has a dual aspect. It not only 'forestalls compulsion by law of the acceptance of any creed or the practice of any form of worship' but also 'safeguards the free exercise of the chosen form of religion.' *Cantwell v. Connecticut*, 310 U.S. 296, 303, 60 S.Ct. 900, 84 L.Ed. 1213. "Thus the Amendment embraces two concepts,—freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be." *Id.*, pp. 303-304, 60 S.Ct. p. 903. Freedom of thought, which includes freedom of religious belief, is basic in a society of free men. [Citation.] It embraces the right to maintain theories of life and of death and of the hereafter which are rank heresy to the followers of the orthodox faiths. Heresy trials are foreign to our Constitution. Men may believe what they cannot prove. They may not be put to the proof of their religious doctrines or beliefs. Religious experiences which are as real as life to some may be incomprehensible to others. Yet the fact that they may be beyond the ken of mortals does not mean that they can be made suspect before the law. Many take their gospel from the New Testament. But it would hardly be supposed that they could be tried before a jury charged with the duty of determining whether those teachings contained false representations. The miracles of the New Testament, the Divinity of Christ, life after death, the power of prayer are deep in the religious convictions of many. If one could

73 Cal.App.3d 988

## KATZ v. SUPERIOR COURT, ETC.

Cite as, App., 141 Cal.Rptr. 234

255

be sent to jail because a jury in a hostile environment found those teachings false, little indeed would be left of religious freedom. The Fathers of the Constitution were not unaware of the varied and extreme views of religious sects, of the violence of disagreement among them, and of the lack of any one religious creed on which all men would agree. They fashioned a charter of government which envisaged the widest possible toleration of conflicting views. Man's relation to his God was made no concern of the state. He was granted the right to worship as he pleased and to answer to no man for the verity of his religious views. The religious views espoused by respondents might seem incredible, if not preposterous, to most people. But if those doctrines are subject to trial before a jury charged with finding their truth or falsity, then the same can be done with the religious beliefs of any sect. When the triers of fact undertake that task, they enter a forbidden domain. The First Amendment does not select any one group or any one type of religion for preferred treatment. It puts them all in that position. [Citation.] As stated in *Davis v. Beason*, 133 U.S. 333, 342, 10 S.Ct. 299, 33 L.Ed. 637, "With man's relations to his Maker and the obligations he may think they impose, and the manner in which an expression shall be made by him of his belief on those subjects, no interference can be permitted, provided always the laws of society, designed to secure its peace and prosperity, and the morals of its people, are not interfered with." (*Id.*, pp. 86-87, 64 S.Ct. p. 886. See also *United States v. Seeger* (1965) 380 U.S. 163,

1387

13. In examining the cases that have proscribed restrictions on religious practices we find recognition of the principle that the immunity must depend on a bona fide belief in the principles of the religion, although those principles themselves are free from scrutiny. "Nothing we have said is intended even remotely to imply that, under the cloak of religion, persons may, with impunity, commit frauds upon the public. Certainly penal laws are available to punish such conduct. Even the exercise of religion may be at some slight inconvenience in order that the State may protect its citizens from injury. Without doubt a State may protect its citizens from fraudulent solicitation by requiring a stranger in the community, before

174-175 and 180-183, 85 S.Ct. 850, 13 L.Ed.2d 733; *Saint Germain Foundation v. County of Siskiyou* (1963) 212 Cal.App.2d 911, 916, 28 Cal.Rptr. 393, and *Fellowship of Humanity v. Co. of Alameda* (1957) 153 Cal.App.2d 673, 681-693, 315 P.2d 394 for discussion of what constitutes religion.)

As noted in the foregoing quotation and the cases we have referred to, there is a distinction between interference with a persons' beliefs and a persons' acts. Nevertheless where does belief end and action begin? In *Wisconsin v. Yoder*, *supra*, the court noted: "This case, therefore, does not become easier because respondents were convicted for their 'actions' in refusing to send their children to the public high school; in this context belief and action cannot be neatly confined in logic-tight compartments." (406 U.S. at p. 220, 92 S.Ct. at p. 1535. See also Jackson, J. dissenting, *United States v. Ballard*, *supra*, 322 U.S. at pp. 92-95, 64 S.Ct. 882.) Evidence was introduced of the actions of the proposed conservatees in changing their life style. When the court is asked to determine whether that change was induced by faith or by coercive persuasion is it not in turn investigating and questioning the validity of that faith? At the same time the trier of fact is asked to adjudge the good faith and bona fideness of the beliefs of the conservatees' preceptors.<sup>13</sup> If it be assumed that certain leaders were using psychological methods to proselytize and hold the allegiance of recruits to the church or cult, call it what we will, can it be said their actions were not dictated by faith merely because others who

1388

permitting him publicly to solicit funds for any purpose, to establish his identity and his authority to act for the cause which he purports to represent. The State is likewise free to regulate the time and manner of solicitation generally, in the interest of public safety, peace, comfort or convenience." (*Cantwell v. Connecticut*, *supra*, 310 U.S. at pp. 306-307, 60 S.Ct. at p. 904; see also *People v. Woody*, *supra*, 61 Cal.2d 716, 726-727, 40 Cal.Rptr. 69, 394 P.2d 813; *In re Grady* (1964) 61 Cal.2d 887, 888, 39 Cal.Rptr. 912, 394 P.2d 728; *People v. Mullins*, *supra*, 50 Cal.App.3d 61, 70, 123 Cal.Rptr. 201; and *Estate of Supple*, *supra*, 247 Cal.App.2d 410, 414-415, 55 Cal.Rptr. 542.)

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[1987]

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[1988]

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engaged in such practices have recanted? The total picture disclosed must be tested by principles applicable to the regulation of acts of religious organizations and their members.

Before examining the application of those principles we note that even if the organization be deemed political, and not religious, there is also freedom of association involved. In upholding the right of the N.A.A.C.P. and its members and lawyers to associate for the purpose of assisting persons who seek legal redress for infringements of their constitutionally guaranteed and other rights, the Supreme Court of the United States concluded by stating, "The course of our decisions in the First Amendment area makes plain that its protections would apply as fully to those who would arouse our society against the objectives of the petitioner. [Citations.] For the Constitution protects expression and association without regard to the race, creed, or political or religious affiliation of the members of the group which invokes its shield, or to the truth, popularity, or social utility of the ideas and beliefs which are offered." (*NAACP v. Button* (1963) 371 U.S. 415, 444-445, 83 S.Ct. 328, 344, 9 L.Ed.2d 405. See also *United States v. Robel* (1967) 389 U.S. 258, 263, 88 S.Ct. 419, 19 L.Ed.2d 508; and *Sweezy v. New Hampshire* (1957) 354 U.S. 234, 250-251, 77 S.Ct. 1203, 1 L.Ed.2d 1311.)

The test of interference with action in the above fields, which are protected by the First Amendment, is a compelling state interest. (*Wisconsin v. Yoder*, *supra*, 406 U.S. 205, 221-229, 92 S.Ct. 1526, 32 L.Ed.2d 15; *Sherbert v. Verner*, *supra*, 374 U.S. 398, 403, 83 S.Ct. 1790, 10 L.Ed.2d 965; *NAACP v. Button*, *supra*, 371 U.S. 415, 438, 83 S.Ct. 328, 9 L.Ed.2d 405; *People v. Woody*, *supra*, 61 Cal.2d 716, 722, 40 Cal.Rptr. 69, 394 P.2d 813; *People v. Mullins*, *supra*, 50 Cal.App.3d 61, 68, 123 Cal.Rptr. 201; and *Montgomery v. Board of Retirement*, *supra*, 33 Cal.App.3d 447, 451-452, 109 Cal.Rptr. 181.) The cases reviewed demonstrate that the state may have a compelling state interest in preventing fraud under the guise of religious belief. If such is the case criminal

sanctions may be imposed where there is no bona fide conviction on the part of the actors. However, the question of proof of that element was not settled by *United States v. Ballard*, *supra*. (Cf. majority opinion, dissenting opinion of Stone, and dissenting opinion of Jackson, 322 U.S. at pp. 86, 90 and 92-95, 64 S.Ct. 882.) We also recognize that the state has an interest in the health of its citizens. The exercise of this right was explored above in part II. We conclude that in the absence of such actions as render the adult believer himself gravely disabled as defined in the law of this state, the processes of this state cannot be used to deprive the believer of his freedom of action and to subject him to involuntary treatment. As Justice Jackson stated in dissenting in *United States v. Ballard*, "The wrong of these things, as I see it, is not in the money the victims part with half so much as in the mental and spiritual poison they get. But that is precisely the thing the Constitution put beyond the reach of the prosecutor, for the price of freedom of religion or of speech or of the press is that we must put up with, and even pay for, a good deal of rubbish." (322 U.S. at p. 95, 64 S.Ct. at p. 890.)

# V

[5] There remains the question of the pending order to show cause regarding contempt. A hearing on that matter is complicated by the necessity of proving that those who are charged received notice of the restrictions on the conservators that were imposed by this court. There is no showing that alleged agents of the conservators and others who allegedly participated in prohibited deprogramming were ever subjected to the process of this court, or that they can now be served and brought within its jurisdiction. There are questions of whether any of the conservatees, in accordance with this court's order, requested to see the deprogrammers, and, if so, whether such requests were voluntary. A further issue is whether the presence of the deprogrammers was required to prevent harassment by members of the church. We are mindful

74 CalApp.3d 6

**METZGER v. BARNES**

257

Cite as, App., 141 Cal.Rptr. 257

that three of the conservatees did recant, consented to the temporary conservatorships and presumably rejoined their parents and adopted their former life style. A fourth has requested that no proceedings be taken against her parents. Only the fifth has requested that we proceed.

We have weighed the unquestioned necessity of preserving and enforcing the integrity of the orders of this court with the peculiar circumstances of this case. We conclude that further prosecution of the contempt proceedings in the case of the first four conservatees is unwarranted because although it might possibly lead to deserved punishment of some who participated in violating the mandate of this court, it is more apt to disrupt inter-family relations which probably have stabilized at this point in time, and at best might only reach those who were inspired by meritorious feelings of paternal devotion. For the latter reason we reject the appeal of the fifth conservatee for further proceedings. The order to show cause for the alleged contempt will be discharged.

**VI**

Petitioners have waived all and any claim to an award of attorneys' fees against real parties in interest. It is thereby unnecessary to examine the validity of their claim.

We do have authority to impose costs (Code Civ.Proc., § 1095; 5 Witkin, Cal.Procedure (2d ed. 1971) Extraordinary Writs, § 175.) The dismissal of the proceedings as to the three petitioners will be subject to the payment of costs by real parties in interest affected by those proceedings.

The petition is granted with respect to petitioners Hovard, Jr. and Kaplan. Let a peremptory writ of mandate issue directing the respondent superior court to set aside and vacate its orders appointing temporary conservators for each of said petitioners and the letters of temporary conservatorship issued thereon. Subject to the payment of costs by their respective conservators, the petitions of petitioners Katz, Un-

derwood and Brown are dismissed. Costs of the joint petitions are assessed jointly and severally against the several real parties in interest as they may be taxed in the trial court upon the filing of the remittitur. The order to show cause re contempt issued April 5, 1977 is discharged. The prayer for attorneys' fees is denied.

**ELKINGTON**, and **LAZARUS** (Retired superior court judge sitting under assignment by the chairman of the Judicial Council), JJ., concur.

Hearing denied; **MOSK** and **CLARK**, JJ., dissenting.



74 CalApp.3d 6

**Thomas D. METZGER**, Plaintiff  
and Appellant,

v.

**Roger BARNES** and **James Steven Wescom**, Defendants and Respondents.

Civ. 48877.

Court of Appeal, Second District,  
Division 5.

Oct. 7, 1977.

Boat owner and plaintiff water-skier brought personal injury action against boat driver and defendant water-skier for injuries received in waterskiing accident. The Superior Court, San Luis Obispo County, J. Hillary Cook, J., entered judgment on jury verdict finding plaintiff was 90% negligent and defendant was 10% negligent, and plaintiff water-skier appealed. The Court of Appeal, Ashby, J., held that: (1) evidence